S. HRG. 98-998

THE ANTI-FRAUDULENT ADOPTION PRACTICES ACT OF 1984

HEARING

BEFORE THE

SUBCOMMITTEE ON COURTS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 2299

A BILL ENTITLED THE "ANTI-FRAUDULENT ADOPTION PRACTICES ACT OF 1984"

MARCH 16, 1984

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THE ANTI-FRAUDULENT ADOPTION PRACTICES ACT OF 1984

FRIDAY, MARCH 16, 1984

U.S. SENATE,
SUBCOMMITTEE ON COURTS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, in the Senate Caucus Room, room 325, Russell Senate Office Building, at 10:12 a.m., Senator Robert Dole (chairman of the subcommittee) presiding.

Also present: Senators Hatch and Jepsen.

Senator DOLE. I want to welcome everyone to this hearing. Certainly it is very important for the people in this country.

I am very pleased to have my colleague on the Judiciary Committee, Senator Orrin Hatch, here this morning. I think Senator Grassley may be coming also. I am also pleased to have a man who has been instrumental in bringing this matter to the attention of the American people, Senator Jepsen, on my left.

I would first call on Senator Hatch for an opening statement.

OPENING STATEMENT OF SENATOR ORRIN G. HATCH

Senator HATCH. Thank you, Mr. Chairman.

Thank you for this opportunity to express before this committee and public forum my concern over reoccurring fraudulent adoption practices. I am pleased to be an original cosponsor of S. 2299, the Anti-Fraudulent Adoption Practices Act of 1984. Further, I have learned that our efforts through this bill complement efforts underway in Utah to curb the inestimable number of children smuggled or fraudulently brought into the United States and coming into Utah for adoption.

By all rights, adoption is one of the most charitable and loving acts in this prosperous Nation. With public and private agencies acting as catalysts, it blesses both the prospective parents and the adoptable children. And when properly orchestrated, all parties are fulfilled within the atmosphere of a permanent home comprised of parents and children.

Adoption thrives as an integral function of family life in the United States.

Last year, thousands of children were adopted into good homes. Many were infants, but many were also children with special needs—children of school age, members of minority races, and children with varying degrees of physical, mental, and emotional handicaps. Adoption must be protected from fraud as a staggering

number of children, over 100,000, remain in foster homes and public and private institutions.

I find it incomprehensible, but there are individuals who profit and make their living by fraudulent adoption practices and enrich themselves by exploiting the virtues of society. They prey upon the desire of parents for children and children for parents.

Recently, in Utah, my home State, 21 families individually provided a private adoption agency in Texas with $7,000 to $10,000 for the adoption of orphaned Mexican children. These children never materialized, prospective parents were disappointed, and the money has not been fully recovered. This type of fraud has occurred in other States as we will learn today.

To compound this particular problem, a Mexican mother paid a fee and entrusted her children to an agency to find them temporary homes in the United States until she was able to immigrate and join them. When she arrived in the United States, she found that they had been permanently adopted by an American family. And further data suggest that individuals profited over one-quarter of a million dollars in this one Utah foreign adoption scam.

I am pleased to report today that the Utah State Legislature has undertaken the task of solving some of the complexities to stop fraudulent adoption practices. Some of the discoveries the Utah State Office of Legislative Research and General Counsel uncovered are startling. And I quote from prepared documents entitled "Foreign-born Children are Being Illegally Brought Into the Country by Unlicensed Groups Arranging Adoptions in Utah."

> Loopholes in the Utah adoption process make the illegal immigration of these children easier. The verification of the orphaned or abandoned status of these children is possibly not being accomplished. Some of these children are known to have been acquired by theft and other less than proper means. The end result is unlicensed adoption groups in Utah realize profits in the thousands of dollars, while Utah families become entangled in the questionable acquisition of foreign-born children and the illegalities of international child smuggling.

The Utah State Legislature has been actively searching for solutions to end these cases. And I would like to share with my colleagues legislation enacted during their recent congressional session. House bill 50 becomes effective on September 5, 1984. This law requires proof of lawful entry into the United States at the time the adoption petition is filed. It is currently illegal for a child to be brought into the United States for adoption except on a permanent visa. And this legislation is only a part of what the Utah State Legislature is considering enacting.

Again, let me reiterate, S. 2299 enhances the efforts underway in Utah. There are currently no Federal laws designed to address fraudulent interstate and international adoption practices. This must be reversed. We should quickly review this legislation by making adoption fraud a Federal crime. I am thankful to Senator Dole for his leadership, and others, in the development of this legislation, and to Senator Jepsen in particular, and I want to offer them my help in assuring enactment of this very important legislation.

Senator DOLE. Thank you very much, Senator Hatch.

Senator Jepsen, do you have a statement?

STATEMENT OF HON. ROGER W. JEPSEN, A U.S. SENATOR FROM THE STATE OF IOWA

Senator JEPSEN. Mr. Chairman, first of all, I want to thank you for introducing in the Senate, S. 2299, the Anti-Fraudulent Adoption Practices Act, and for holding these hearings on this bill.

This act would provide legal protection to adoptive parents, and mothers who have been victimized by fraudulent adoption practices. I think what we see in the activity that has been uncovered here in these fraudulent adoption practices is just yet another example of the insensitivity that has been gradually accumulating through a lack of respect for life.

When there are those who would prey on the hopes and the dreams of couples who want to give love and care to children, and yet, for profit, would abuse through fraud, and take money under false pretenses, we see the result of a lack of respect for human life.

Recently it has come to our attention that an adoption ring has been operating in several States, and in Mexico, as has been alluded to earlier. The scenario is all too familiar. Couples are promised a child, they come forward with the money, and then never receive the child. Disappointment follows hope, when no child arrives.

Words, Mr. Chairman, cannot adequately express the grief and the despair that these couples experience. Most especially this morning, I would urge everyone to listen very closely to the story of Linda and Mike Davis from Wapello, IA. Mike and Linda are one of many, many couples who have had their hopes for receiving a child broken and dashed.

After listening to their story, and the others that will be heard today, I am sure you will agree with me that this is a national tragedy, and we should do everything that we can to make sure that other couples' hopes do not—are not dashed, and that mothers who give up their children for adoption are not misled.

Mr. Chairman, once again I thank you and your colleague on this subcommittee, and those who are testifying here today, for bringing this tragic problem to the attention of the American public.

OPENING STATEMENT OF SENATOR ROBERT DOLE

Senator DOLE. Thank you very much, Senator Jepsen.

I want to make a very brief statement, and then we will produce Pat Roberts, a Congressman from Kansas, who will introduce our first witness.

I would just say at the outset that, as you know, there are a number of important things that happen and sometimes we fail to focus on those areas that may not be large by standards around this town, but are very important to the people involved.

I guess this hearing today is in large part the result of one man's belief that our system of government still works. Outraged by what he perceived as the authorities' callous disregard for the plight of a couple in his small Kansas town, John Grubb, chief of police in Chase, KS, called my office in Washington. His request was simple—he wanted action.

Grubb, the only member of the Chase Police Force, explained to me that a couple in Chase had lost $4,000 to people who had promised children available for adoption from Mexico within a relative short time. The money, they were told, was to pay for medical and legal expenses. As time passed, however, it became all too clear that the couple had fallen victim to a cruel hoax. No child was ever delivered, and no money was ever returned. Sadly, as we have now discovered, the Kansas couple are by no means alone with their loss and sorrow.

So our staff began looking into this heartbreaking story which was called to our attention by Chief Grubb. Calls poured into my office. Senator Jepsen and Senator Hatch have already related the number of cases in their own States.

In an excellent series by the Fort Worth Star-Telegram, it was reported that the scam had been in operation for years. The Arizona Range News has reported that the scam has been reported in as many as 36 States, from Hawaii to Massachusetts. In addition, there have been conservative estimates that over 100 couples had been defrauded out of several hundreds of thousands of dollars. In my home State of Kansas alone, as many as 14 couples are victims. Years of frustration and hope by these couples have been rewarded with despair and severe financial loss.

However, the numbers involved are not as important as the questions raised by this one operation. After all, no one knows how many other operations might also be occurring even as we meet today.

How could this happen, and why was it not stopped? Today we will begin to answer those questions. I would hope that the bill I have introduced, S. 2299, the Anti-Fraudulent Adoption Practices Act, would be of some help. The bill has a number of cosponsors and has strong bipartisan support. I believe that it will be at least the first step in providing protection for those who seek to adopt through interstate or international channels. I would also state that Senator Hatch's support strongly indicates that this would move very quickly in our committee.

I am aware that adoption is an area of law that is better suited to regulation at the State level. In recognition of this, the bill does not add another layer of bureaucratic regulation to an already cumbersome adoption process. Rather, it seeks to fill in the gaps that exist in present law when adoptions take on interstate and international proportions. Also, the bill is not intended to favor adoptions through an agency over the many ethical persons who arrange independent adoptions. Any adoption intermediary which ensures the welfare of the child and does not operate deceptively or with profit as the primary concern should welcome the provisions of S. 2299.

[A copy of S. 2299 follows:]

II

98TH CONGRESS
2D SESSION

S. 2299

Entitled the "Anti-Fraudulent Adoption Practices Act of 1984.".

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9 (legislative day, FEBRUARY 6), 1984

Mr. DOLE (for himself, Mr. DENTON, Mr. GRASSLEY, Mr. BENTSEN, Mr. HATCH, and Mr. JEPSEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

Entitled the "Anti-Fraudulent Adoption Practices Act of 1984.".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-Fraudulent Adoption Practices Act of 1984".

SEC. 101. Title 18 of the United States Code is amended by redesignating chapter 2 thereof as "chapter 2b", and inserting prior thereto a new chapter, designated as "chapter 2a", which shall read as follows:

"CHAPTER 2a—ADOPTION PRACTICES

"§ 21. False pretenses in connection with the offering of adoption services

"(a) It shall be unlawful for any person, offering to perform any act or render any service in connection with the placement of a child in a home for permanent free care or adoption, to knowingly and willfully make any statement or make or use any document that is known to be false, or to conceal or misrepresent any material fact, in connection with the performance of such act or the rendition of such service or the offer so to do.

"(b) Any person who commits a violation of this section shall be punished by imprisonment for a period of not more than five years, or fine not exceeding the amount of $10,000, or both.

"§ 22. Placing a child for permanent free care or for adoption for compensation

"(a) It shall be unlawful for any person to knowingly and willfully solicit or receive money or any other thing of value, or the promise thereof, for placing or arranging for the placement of any child in a home for permanent free care or for adoption under circumstances that would require or result in such child being transported in interstate or foreign commerce.

"(b) Any person who commits a violation of this section shall be punished by imprisonment for a period of not more

than five years, or fine not exceeding the amount of $10,000, or both.

"(c) The provisions of this section shall not apply in the case of any person who—

"(1) solicits or receives any money or thing of value as the bona fide agent of a child care or adoption agency, public or private, which is authorized or licensed by a State to provide permanent care for children or to place children for adoption, in exchange for services rendered by said agency;

"(2) solicits or receives fees solely for professional legal services rendered in connection with the consultation regarding, and the preparation and execution of documents necessary to accomplish, the legal placement of a child in a home for permanent free care or adoption;

"(3) solicits or receives fees solely in connection with the consultation regarding, and the rendition of, professional medical services related to the prenatal care of a natural mother or the delivery, examination, or treatment of a child to be placed in a home for permanent free care or adoption;

"(4) places or arranges for the placement of any child in any home for permanent free care or adoption, if such person is the natural parent of the child; or

"(5) arranges, or seeks to arrange, for the placement in his or her home of a child for the purpose of adopting such child or providing such child with permanent free care.

"§ 23. Transportation of individuals under duress

"(a) It shall be unlawful for any person, by the use of force or duress, to knowingly and willfully cause any other individual to travel in interstate or foreign commerce in connection with the placement of a child in a home for permanent free care or adoption.

"(b) Any person who commits a violation of this section shall be punished by imprisonment for a period of not more than ten years, or a fine of not more than $20,000, or both.

"(c) The provisions of this section shall not apply to any person who effects the placement of a child in a home for permanent free care pursuant to a lawful order of a court of record within a State.

"§ 24. Definition of terms used in this chapter; effect on State law and regulation

"(a) As used in this chapter—

"(1) the term 'child' means a person who, by reason of minority, is legally subject to parental control or guardianship; and such term shall include a child in the womb;

"(2) the term 'permanent free care' means the care given to any child on a permanent basis by any person who is not receiving compensation therefor in excess of funds provided by a public or private agency for the purpose of defraying expenses incurred in connection with the provision of such care; and

"(3) the term 'State' shall include the District of Columbia and any territory or possession of the United States, in addition to the Commonwealth of Puerto Rico.

"(b) Nothing in this chapter shall be construed to limit or otherwise affect the applicability or validity of any State law or regulation that may govern the placement of children in a home for permanent free care or adoption; nor shall anything in this chapter be construed to limit or otherwise affect the applicability or validity of any compact entered into between any of the several States with regard to the provision of services in connection with the placing of a child in a home for permanent free care or adoption.".

SEC. 102. INDICES TO TITLE 18.—(a) The index accompanying part I of title 18, United States Code, is amended by inserting the following captions in place of the caption pertaining to chapter 2 thereof:

"2a. Adoption practices 21
"2b. Aircraft and motor vehicles ..... 31".

(b) The analysis accompanying chapter 2 of title 18, United States Code, is amended by inserting the letter "b" after the words "CHAPTER 2" found in the heading of such analysis.

(c) The analysis accompanying chapter 2 of title 18, United States Code, is further amended by inserting in front thereof the following analysis of the provisions of the new chapter 2a provided for in this Act:

"CHAPTER 2a—ADOPTION SERVICES

"Sec.
"21. False pretenses in connection with the offering of adoption services.
"22. Placing a child for permanent free care or for adoption for compensation.
"23. Transportation of individuals under duress.
"24. Definition of terms used in this chapter; effect on State law and regulation.".

SEC. 103. Title 42 of the United States Code is amended as follows:

(1) Section 5112 is amended by adding new subsection (d) after subsection (c) as follows:

"(d) ASSISTING STATES WITH CONTROLLING FRAUDULENT ADOPTION PRACTICES.—The Secretary shall (1) review all model adoption legislation and procedures for the purpose of proposing such changes as are considered appropriate to insure the protection of children available for adoption, prospective adoptive parents and a parent or parents wishing to give a child up for adoption from fraudulent adoption practices, (2) coordinate with national, State and voluntary organizations concerned with adoption, efforts to improve State adoption legislation, and (3) assist the States in

the development of improved procedures for controlling illegal adoption practices.".

(2) Section 5113(b)1 is amended by striking all after "(1)" and replacing with "provide (after consultation with other appropriate Federal departments and agencies, including the Bureau of the Census) for the establishment and operation by January 1, 1986, of a national adoption and foster care data-gathering and analysis system.".

(3) Section 5114 is amended by striking all after "Secretary" and replacing with "shall conduct an ongoing study of the nature, scope, and effects of the placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any government entity. The Secretary shall issue biannual reports on the findings of the study.".

SEC. 104. Chapter 67 of title 42 of the United States Code is amended by adding after subchapter II a new subchapter III as follows:

"SUBCHAPTER III—CIVIL REMEDIES FOR VICTIMS OF FRAUDULENT ADOPTION PRACTICES

"§ 5116. Defrauding prospective adoptive parents; civil remedies

"Any person who, having accepted money or anything of value in connection with an offer of, or performance of, any service or act relating to the placement of a child in a home for permanent free care or adoption, has committed a violation of the provisions of chapter 2a of title 18, United States Code, shall be liable for damages to any individual who has paid money or anything of value for the performance of such service or act. The district courts of the United States shall have jurisdiction to hear such cases regardless of the amount in controversy, and the plaintiff in such actions shall be entitled to recover any money or thing of value (or the monetary equivalent thereof) which was provided to the defendant in exchange for the offer or promise to perform the act or service in question, in addition to punitive damages, costs of suit and attorney's fees, where appropriate. The court may further impose such other penalties that may be provided for by State or Federal law.

"§ 5117. Defrauding birth mother; civil remedies

"Any person who, having agreed to pay the expenses of a pregnant woman in return for the giving up of the child for

adoption, commits an act of fraud in either stating the agreement or in performing it, shall, if such woman traveled in interstate or foreign commerce because of the agreement, be liable to such woman for damages incurred as a result of the failure to perform any act or service covered by such agreement. The district courts of the United States shall have jurisdiction to hear such cases regardless of the amount in controversy, and the plaintiff in such actions shall be entitled to recover such consequential and punitive damages, plus costs and attorney's fees, as may be appropriate. The court may further impose such other penalties that may be provided for by State or Federal law.".

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Senator DOLE. We are very pleased to have a number of outstanding witnesses. Their testimony should be informative and helpful.

I think the entire situation is best summed up by an editorial which appeared in the Topeka Capital-Journal in February, in praise of the developing national effort to crack down on adoption scams. "If this seems like an all-out attack, it is. If this seems like too much, it isn't. There are more violent crimes, but none more cruel."

So, John, we appreciate your being here, and certainly Pat Roberts, we appreciate your being here, you have been actively involved in this, with Mr. Grubb and others. We are pleased to welcome you, and we will turn it over to you.

STATEMENT OF HON. PAT ROBERTS, A U.S. REPRESENTATIVE FROM THE STATE OF KANSAS, ACCOMPANIED BY JOHN GRUBB, CHIEF OF POLICE, CHASE, KS

Mr. ROBERTS. Thank you, Mr. Chairman.

I want to thank you for this opportunity to be here with John, and to have the privilege of introducing him before the subcommittee, and before Senator Hatch and my good friend from Iowa, Senator Jepsen.

I want to commend you for your leadership in this area, and hope that the legislation that we have introduced—your bill here in the Senate, and the companion bill I have introduced in the House, with the other primary sponsor, Congressman Jack Brooks of Texas—will actually provide the necessary protection for successful adoption.

I have the privilege this morning of introducing a fellow Kansan, Mr. John Grubb, as you have indicated, Mr. Chairman, and I was pleased he could take the time to be with us, as you can see here from the national media attention, he has been on all of the networks here this morning. That is not a typical day in the life of a small town, law enforcement officer, but in regard to what he has done, it is very typical.

All of this publicity is not without reason, as you have indicated, Mr. Chairman. John was the first Kansas law enforcement official to investigate the cases of alleged fraud in regard to these adoption cases, and after hearing the story of a local couple who had paid several thousand dollars for an adoption that has never materialized, John launched the effort that has led to this hearing this morning, this legislation, and this national attention.

I think if you talk with the folks back home, you will find that John entered the field of law enforcement because he wants to help people. His efforts on behalf of the couples who have been victimized, I think, really do exemplify his dedication to public service.

I was just talking with our outstanding chief law enforcement officer in the State of Kansas, Bob Stephan, who will be following here with a statement, and he said something here about John that I think pretty well hits the nail on the head. He said that he is a real bloodhound. If there is smoke, he will find the fire.

He has found the fire, he is an activist, and he is a good example of a local law enforcement officer who is not happy with the way

things are, and if you are the sheriff, or a police chief in the big First District of Kansas, you not only have folks out there, and you have to have them obey the law, you have to be part of that community as well. I cannot think of a finer example than John Grubb.

So, Mr. Chairman, I introduce to you and the members of the subcommittee, Mr. John Grubb, chief law enforcement officer of Chase, KS, in good old Rice County, in the big First District of Kansas.

John.

STATEMENT OF JOHN GRUBB

Mr. GRUBB. Thank you, Mr. Roberts.

Senator DOLE. John, thank you very much. I do not know who is going to be watching everything in Chase today while you are here. Do you have a replacement up there?

Mr. GRUBB. We have the sheriff's department.

Mr. Chairman, I would like to take this opportunity to thank you for being here, being before this committee, and also thank your colleagues, Senator Hatch, Senator Denton, Senator Grassley, and Senator Jepsen for introducing this bill entitled the "Anti-Fraudulent Adoption Practices Act of 1984."

As you well know, Mr. Chairman, on December 15, 1983, the Chase Police Department initiated an investigation into an agency headquartered here in the United States, after meeting with the Chase couple. The couple, Mr. Chairman, Don and Pat King, also of Chase, advised me that they had been in contact with the Arizona woman by the name of Debbie Tanner. Tanner had promised the Kings that she could obtain a Mexican infant for them, but for a sum of money, and requested that the Kings send that money to her at an address she stated to the Kings.

But as of this date the Kings have not received any refund of their moneys, or any explanation for the delay. Mr. Chairman, never before have I been involved in a more emotionally charged investigation.

Mr. Chairman, this is not a crime, this is a national tragedy. A national tragedy, which has resulted in several couples being defrauded out of thousands of dollars. Couples such as Donald and Patricia King, Steve and Susan Palacioz and others, who were promised a child, and were told that children would be available for adoption in a short period of time.

Except for a letter from the Arizona woman stating that she was having a nervous breakdown, let me add, Mr. Chairman, I would too have a nervous breakdown if I was accused of defrauding as many people as Mrs. Tanner has.

Gentlemen, and Mr. Chairman, if I did what this woman was alleged to have done, I would also have a nervous breakdown. Since initiating this investigation, we have been able to identify two more suspects, they being Bryan Hall of El Paso, TX, and Becci Kelley of New Market, IA.

My investigation has also revealed that these three suspects are alleged to have defrauded approximately, at least, 100 couples in 22 States.

Mr. Chairman, while talking to several of these couples during my investigation, I have found out that Debbie Tanner has promised these individuals children. She says they would receive the children in approximately 6 months, 7 months, and after about 4 months she called these people back, and she says the baby died.

Mr. Chairman, this has got to be one of the most emotional investigations, or emotional types of crimes that I have ever heard of.

Senator DOLE. Does that complete your statement?

Mr. GRUBB. Yes, it does.

Senator DOLE. Thank you.

In your investigations do you find Federal officials and agencies to be generally helpful?

Mr. GRUBB. No, sir, I do not. I have—we have had some problems with different agencies in the Justice Department.

Senator DOLE. In other words, as I understand, you made a number of inquiries but did not get any action?

Mr. GRUBB. Did not get any action, sir, until I contacted the chairman, sir.

Senator DOLE. What do you believe to be the single largest roadblock affecting control of adoption scams such as you have described?

Mr. GRUBB. The single roadblock, sir, is inadequate laws, State laws. What we need is, we need some Federal legislation such as the Anti-Fraudulent Adoption Practices Act.

Senator DOLE. Are you convinced that the people that are doing this, Tanner and others, were just in over their heads, or was it deception and fraud?

Mr. GRUBB. Without going into too much detail, sir, I believe it is a fraud from the beginning.

Senator DOLE. How many families have you talked to across the country, or how many have you been able to identify, of families that have been bilked by this scheme, or by other schemes?

Mr. GRUBB. Mr. Chairman, I have been able to locate and confirm at least 80 couples.

Senator DOLE. Eighty couples?

Mr. GRUBB. Yes, sir.

Senator DOLE. How many States?

Mr. GRUBB. In approximately 22 States.

Senator DOLE. And have you had direct contact, or contact by mail, letters, or through the Kansas couple?

Mr. GRUBB. Yes, sir. I have had, through mail, through direct contact, and through telephone.

Senator DOLE. Are the names of those couples now available? I assume someone has them; is that correct?

Mr. GRUBB. Yes, sir.

Senator DOLE. Senator Hatch, do you have questions?

Mr. HATCH. I just wanted, Mr. Chairman, to congratulate you, and thank you for being so earnest in trying to get to the bottom of this, and also your active work in trying to get some legislation to help stop this practice.

I just want to personally commend you for doing that.

Mr. GRUBB. Thank you, Senator.

Senator DOLE. Senator Jepsen?

Senator JEPSEN. Yes.

Chief Grubb, in your investigations, have you become acquainted with the adoption laws and practices of the various States? Do you feel you are an authority on them now?

Mr. GRUBB. No, sir, I am not an authority on the adoption laws. However, I have talked to some of the attorney generals' offices throughout the United States, who have informed me that their laws are inadequate to handle this situation.

Senator JEPSEN. They are inadequate to handle this situation?

Have you heard, on the other side of the coin, any couples, or any of the people who are working with adoptions in the various States, that it is a long, lengthy process, to get an adopted youngster, that there are many families that have been waiting for many, many years to obtain an adopted youngster? Have you ever heard that?

Mr. GRUBB. Yes, sir, I have. I heard that from Donald and Patricia King. In fact, they were told they were on the waiting list, and they were waiting 5 years in order to adopt a child.

Senator JEPSEN. We are trying to bring out here, into the record, some light on the perspective that on the one hand, we have millions of young boys and girls aborted each year in this country. And on the other hand, we have waiting lines for people who want to give love and care to children. I think a lot of attention needs to be given in all areas, not only to make sure that we do not have fraudulent schemes, such as we are working on here, where they are abusing that hope and that desire to give love and care to a child for profit, but to make sure that in this process we do not give such a black eye to the adoption process that it makes it even more difficult for people to choose adoption. We must make sure that those who look for adoption as an option or who will give their child out for adoption, rather than have an abortion, will not be discouraged from doing so.

There have been misuses and abuses, and here we are going to bring them to the light of publicity in order to correct them. Would you say this is the exception rather than the rule in the whole area of adoption in this country, in your experience?

Mr. GRUBB. Yes, sir.

Senator JEPSEN. Thank you.

Senator DOLE. Finally, Mr. Grubb, have you been able to determine, in all of your telephone calls, and all of your investigations—I think we must understand it is pretty hard for a one man force to ferret out a lot of these things—whether or not these people were acting on their own, or someone else was involved that maybe we are not yet aware of?

Do you have any evidence that they were fronting for someone else?

Mr. GRUBB. No, sir, we do not.

Senator DOLE. Have you talked with any of the—have you talked with the lady in New Market, IA, as part of the group?

Mr. GRUBB. Yes, sir, Senator.

Senator DOLE. Becci Kelley?

Mr. GRUBB. Yes, sir.

Senator DOLE. What did she tell you?

Mr. GRUBB. Well, Becci Kelley advised me that, No. 1, that she was not really involved with the group, as the press statements described her as being involved.

However, through my investigation, I have come to the conclusion that she is a big part of it, all the way through it.

Senator DOLE. Did she have any direct contact with the Kansas couples?

Mr. GRUBB. She had direct contact with at least three of the Kansas couples, yes, sir.

Senator DOLE. Who made the contacts in the other cases?

Mr. GRUBB. The other cases were either made by Bryan Hall or Debbie Tanner.

Senator DOLE. Were they personal contacts, did they come to Kansas, or did they deal by telephone, or mail? How did they negotiate the arrangement?

Mr. GRUBB. Sometimes through newspaper ads, sir, sometimes by setting up adoption clinics, another separate set up in California, and by telephone.

Senator DOLE. How many, again, of the Kansas couples have you been in contact with?

Mr. GRUBB. All of them, sir.

Senator DOLE. Fourteen couples?

Mr. GRUBB. Yes, sir.

Senator DOLE. Has there been any change in their situations, has anybody reserved a child, from the time you contacted them until their most recent contact?

Mr. GRUBB. No, sir.

Senator DOLE. There is not a completed case then, in any of the 14?

Mr. GRUBB. No, sir, there was not.

Senator DOLE. How much money, total money, do you think might have been involved in those 14 cases?

Mr. GRUBB. I believe it was $43,000, sir.

Senator DOLE. Over what period of time was this, all last year, or the year before?

Mr. GRUBB. It goes back about 4 years.

Senator DOLE. About 4 years?

Mr. GRUBB. Yes, sir.

Senator DOLE. Chief Grubb, we appreciate very much your making the effort to come to Washington, and we are serious in what we are doing here. We again thank you for reminding us that our system will work if somebody pushes a bit. Certainly you have performed a great service, not only to Kansas, but many others—in 10, 15, 20 years from now, if we could do something in the legislative area that might prevent another occurrence of this type of operation.

Mr. GRUBB. Yes, sir.

If I might add, what we need, and I am sure everybody agrees here, is Federal legislation, and what we need is bill 2299.

Senator DOLE. All right. It may need some changes, I think Senator Hatch, in the Judiciary Committee, may make some changes.

We want to thank Pat Roberts for introducing the bill on the House side. Hopefully that will start moving on the House side.

Thank you very much.

Our next witness is our attorney general from Kansas, Bob Stephan, who will indicate to us why Federal legislation may be necessary.

I think, Bob, as I understand it, there was a suit filed in Iowa. Maybe you could touch on that in your statement. They got an injunction, but that does not do much good.

STATEMENT OF HON. ROBERT T. STEPHAN, ATTORNEY GENERAL, STATE OF KANSAS

Mr. STEPHAN. That is right, Mr. Chairman, there is a suit in Iowa, and we also have a lawsuit on file under our Consumer Protection Act. But it is unfortunate that we have problems with the civil long-arm statute, and, of course, in regard to the criminal jurisdiction, the problem of extradition, the laws that cover this, and I appreciate the opportunity to be here today to discuss this very important matter with Senator Hatch and Senator Jepsen and yourself.

This was also brought to my attention by John Grubb. I will tell you, he may be one man, but he is like a thousand shot, you never see anything like it, he has literally covered this country in regard to this problem, and after John brought it to my attention, my staff began to investigate the problem, and found that it really is somewhat like a shell game; it reminds me of a carny operation, because you always had three peanut shells, you have got three people involved in this matter, Debbie Tanner of Wilcox, AZ; Becci Kelley of New Market, IA; and Bryan Hall of El Paso, TX. And they all played a part in this, and to coin a phrase from the popular commercial today, the bottom line of all this is, where is the baby.

And you pick up the shells, and there is not any baby at the end of the line, and folks are putting out from $2,500 to $6,000 to people, plus the cost of a service, home study service, and incidental costs relative to the adoption, and there is always a mixture of truth that is mixed with fiction in this whole thing.

For example, in Kansas, some of these adoptions were arranged, in effect, or at least the recommendation was made by a licensed psychologist who was either taken in by all of this, and was less than adequately informed before he led folks to these people, and then they would be put in touch, they would pay an initial $1,000 down payment, and then the scam really started.

They would say, well, you have to get power of attorney for a lawyer in Mexico, and so they would send them to Kansas City, to the Mexican Consulate, and then the power of attorney would be drawn up, and it would be properly notarized, and this was supposedly to get them in touch with the Mexican attorney. And the three people involved had different roles.

I am just going to refer to them as shell No. 1, shell No. 2 and shell No. 3. Debbie Tanner was the one who would allegedly obtain the infants, and make the arrangements for the adoption.

Shell No. 2, Becci Kelley from Iowa, offered intermediate support services, guaranteeing the availability of a child for adoption. And shell No. 3, Bryan Hall of Texas, tied together this exotic connection by representing himself as a translator to Mexican officials, who would complete the details.

These adoptive parents, after being at the Consulate, were told by Tanner that they should also ask for an adoptive packet which legitimatized the entire affair. And in that packet there would be a fingerprint card, immigration form, and an affidavit of support, and I just want to read very briefly from one of the statements that the Tanners would give folks that were looking for a baby.

They state that the following statement is based upon the procedure Debbie and Terry Tanner went through to adopt their two sons from Mexico. And they state that in the past, many people, when starting immigration work, or applying for home studies, had been asked by social workers or immigration officers, whom are you going through. When asked this question, you should not say the Tanners are doing our adoption. It is being done by your lawyer in Mexico. The Tanners only helped by showing you what they did.

Of course, the Tanners got the money. When they asked whom are you going through, say our lawyers in Mexico. His name is Senior Prospero. Then later in the statement it says there are good lawyers, and dependable ones, because of stress and the time involved, the lawyers cannot receive your personal calls, and, of course, that cuts out a lot of contact with the so-called lawyer in Mexico.

There is a lawyer there, the name is correct, but he had never been paid for any services, and so he did not intend to do any. And the bottom line of all of this is that there just has not been an adequate collection service in regard to fraudulent adoption practices.

The checks were made, social and rehabilitation services offices in the very States, before many of these adoptions were commenced, and there was no information available. And under this Senate bill there would be a central collection agency for information, and I think that would prove a grave concern in fraudulent adoption practices. There would not be a duplication of civil and criminal investigations and judicial procedures, there would not be the problem of the State longarm statute, and extradition procedures and the research in an investigation of initiatives at the Federal Government, of course, are so much greater than State governments.

I thank you for the introduction of this very important bill, and certainly hope that it will be passed.

Senator DOLE. Thank you, Attorney General Stephan. We appreciate very much your being here, and also your vigorous actions.

Again, I think, as you pointed out, there is not much that you can do without some Federal legislation.

Do you believe that the States—you have already in effect answered this—but I think you have indicated you do not have the authority, or the tools to control either interstate or international adoptions; is that correct?

Mr. STEPHAN. It is very difficult, and very expensive, and really there are not any adequate laws today to cover this on a national or international scale. I just think a few years back no one anticipated the sale of babies on the scale that we have today.

There are newspaper advertisements all over the country, there are companies in business today for profit, arranging for the adop-

tion of babies, and the price gets very, very expensive, and there just needs to be national legislation, as a national front.

Senator DOLE. I think we want to be very careful here, there are a number of—in fact, a great, great majority of legitimate agencies, State-licensed or not, what we have here hopefully is the fringe that we need to address, so we need to be careful when we draft legislation.

Also, of course, we understand it is best to regulate at the State level, we do not want to get into the adoption business.

Mr. STEPHAN. We do not want you to either, Senator, in all due respect. I certainly agree with your entire statement that it is a State matter.

Senator DOLE. I think you have looked over the legislation. I do not believe we infringed on any State's prerogatives or rights.

Mr. STEPHAN. Not at all. I think the bill adds to the State initiatives, and as you say, underscores the unscrupulous in this area, and certainly does not interfere in any way with the legitimate adoption services, the private services and public services that are available in this country.

Senator DOLE. You have indicated that you have filed a civil suit. Are you going to be able to do anything with it?

Mr. STEPHAN. Well, we are not certain at this point, and we have just a thread of suits that have resulted in repayment to one couple, but it just seems somewhat untoward to proceed under the Consumer Protection Act on a matter as sensitive as this, in treating this as just another product for sale in the supermarkets, and I think that is unfortunate.

Senator DOLE. If there is any State criminal statute, they could bring criminal charges, and extradite someone from a State.

Mr. STEPHAN. We looked very closely at the criminal aspects of this, and there is a thin thread of possibility in regard to the statute we have in Kansas, called theft by deception. It normally refers to objects or things, and not human beings, but it may be a possibility.

Senator DOLE. Senator Hatch?

Senator HATCH. Are you familiar with the interstate compact with the placement of children?

Mr. STEPHAN. Yes, sir.

Senator HATCH. Would you feel that this may be, or has it been used at all?

Mr. STEPHAN. No, it really has not been used, to my knowledge, in regard to these private adoptive demands.

Senator HATCH. Would it be adequate?

Mr. STEPHAN. I really do not know what kind of services are available in regard to information, and I think that is one of the big problems. No one really knows where to go to see if some adoption service is legitimate or not.

Senator HATCH. It still would not solve this problem of fraudulent practice?

Mr. STEPHAN. No, I do not think it would.

Senator HATCH. There are concerns raised in the Utah State Legislature that changing the statute laws will preempt private adoptions. Do you agree with that argument?

Mr. STEPHAN. The State law?

Senator HATCH. That changing State laws along these lines will preempt private adoptions.

Mr. STEPHAN. Well, of course, I think it depends on the way in which the particular legislation is written.

Senator HATCH. There is no reason for that to be the case, is there?

Mr. STEPHAN. No. I think private adoption serves a very useful purpose, and I think we ought to protect peoples' rights to private adoption.

Senator HATCH. Thank you. I appreciate your testimony that you have brought here today.

Thank you, Mr. Chairman.

Senator DOLE. Thank you very much, Bob. We will work together on it.

Mr. STEPHAN. We have plenty to do. I appreciate it. I guess you will be home tomorrow, is that right, Senator?

Senator DOLE. I may be there before you are.

Mr. STEPHAN. If you are, tell them I said hello.

Thank you very much.

[The prepared statement of Mr. Stephan follows:]

PREPARED STATEMENT OF ROBERT T. STEPHAN

Chairman Dole, Members of the Committee:

On March 8 of this year my office filed a consumer protection action in a state court of Kansas alleging that three defendants from other states defrauded numerous Kansas families. The suit arises from an adoption scam involving the promised delivery of orphaned Mexican children to prospective parents willing to pay thousands of dollars in adoption fees. As I am sure the committee members are aware, the children were rarely matched with their anxious adoptive parents and the fees paid have not been fully recovered. We will, of course, pursue injunctive relief, full restitution and civil fines on behalf of the Kansans deceived by this cruel scheme, but I am here today to urge Congress to address the larger issues presented by this case. They are, in my opinion, matters of national concern, urgently in need of the attention and response that only the federal government can provide.

I wholeheartedly endorse S-2299, the Anti-Fraudulent Adoption Practices Act of 1984, offered by Senator Dole and others, and I commend the Senators for their prompt response and genuine concern. This is a necessary proposal directed at those greedy few who would fraudulently prey on the longings of adoptive parents by trafficking in the interstate and international selling of children. My testimony will focus on the incidents of such schemes in Kansas, the limits of Kansas law to effectively control such practices and the advantages of S-2299 in preventing, detecting and punishing interstate and international adoption fraud.

I.

Americans are eager to adopt children. Senator Grassley told the Senate in sponsoring S-2299 that last year 2 million couples sought to adopt children while less than three percent (3%) of those couples were able to obtain a child. Under such circumstances, the searching, waiting and uncertainty of prospective adopting parents makes them susceptible to the unscrupulous profiteer.

Thirteen (13) Kansas families have fallen prey to the deceptive promises of three (3) adoption promoters who promised children within 6 to 12 months for a fee of $2,500 to $6,000. All three were unlicensed in Kansas or elsewhere, but they managed to garner the assistance of licensed, but ill-informed, adoption agencies in locating and communicating with prospective clients.

Through these contacts and newspaper ads, the promoters offered Mexican orphans for adoption. Various telephone contacts were made and written materials were supplied to the prospective families explaining the adoption procedures, and containing application forms. The fees were to vary depending on attorneys' fees, medical costs, child care and travel costs. Money was often collected in installments and was to be deposited in "trust accounts." Of the cases we have investigated, in connection with the Mexican orphan adoption scheme, only two children were actually available for adoption and only one of the prospective adoptive couples has received a full refund of the fees paid. The remaining couples are sorely disappointed and out-of-pocket more than $46,700 to the defendants.

Allow me to relate the story of but one of these families. This couple applied to adopt a Mexican child with one of the promoters named in our recent law suit who had solicited the couple's application. A one thousand dollar fee ($1,000) accompanied the application. The application was made in March of 1983. On Memorial Day, the adoption promoter contacted the couple to advise that a child was available and that three thousand dollars ($3,000) was needed to cover the adoption expenses. The money was wired to the promoter in El Paso, Texas, and the family was advised it would have a child within two (2) weeks.

Weeks passed without word from the promoters. However, instead of giving up hope, the family held faith with the promoter. The husband and wife flew to Arizona for a face-to-face meeting, and were assured throughout that a child would be available. Travel arrangements were frequently made for the trip to Mexico to pick up the child but were only cancelled at the last moment. In reliance upon the promoters promises, this Kansas couple purchased baby clothes and furniture and even postponed the husband's surgery in anticipation of the trip to Mexico.

In January of this year, this couple learned that the adoption agency had closed.

This scenerio is not uncommon. The financial losses are measurable, but it remains to be seen whether our attempt at recovery will be successful. The suffering of these desperate couples is immeasurable and the year lost to anxiety, irreplacable. I cannot conceive of a more cruelor heartless scam. Yet, as long as so many couples in Kansas, and elsewhere, are eager to adopt children and unable to do so through licensed and legitimate means, the door is open for the unscrupulous profiteer. Hence, I have no hesitation in advising this committee that the problem at hand is both real and urgent. The sad stories we have heard recently will surely continue on an even larger scale unless government intervenes.

II.

State governments are intervening on behalf of their injured citizens. Both Iowa and Kansas have now used the powers of their respective consumer protection laws to seek redress from the promoters of the Mexican orphan adoption scam. There is something discomforting about utilizing consumer protection laws to recover losses suffered in an adoption scheme. Children are not widgets and the services rendered by adoption agencies are a far cry from the common high pressure door-to-door salesman. Yet, in our circumstance, where the adoption agencies in question are unlicensed out-of-state operators, the provisions of the consumer protection laws may be the source of some relief. However, there are inherent limitations in such individual state efforts.

First, this is a national problem. Adoption agencies may operate in many states simultaneously. The current rash of adoption promoters, including the ones we investigated, have been operating in as many as twenty(20) states. Absent federal involvement, individual states will be required to duplicate civil and criminal investigations and judicial proceedings.

Second, I doubt that all states have statutes specifically designed to discourage and punish such activities. It has been the Kansas experience that laws dealing with adoption activities do not specifically cover these types of adoption operations. See K.S.A. 65-501 et seq. Currently, the Kansas legislature is considering amendments to such laws to strengthen the state's abilities to respond to the recent abuses. See 1984 House Bill No. 2098. At best, the state remedies will be non-uniform and uncoordinated with one another. As an interstate, and even international problem, a uniform and well-coordinated response is required.

Finally, whether civil or criminal, the reach of the federal government exceeds that of the individual states. Under federal law, many questions of civil long-arm jurisdiction or criminal extradition are avoided. Civil awards for losses and damages, as well as civil fines or restitution, may be more easily enforced through the federal courts. And, of course, the assistance of federal agencies in collecting information regarding fraudulent adoption outfits would assist local agencies in advising potential victims. Federal law enforcement agencies could be most helpful in detecting, investigating and even prosecuting offenders.

Please be assured that the states, like Kansas, will diligently pursue any legal remedies available under state law. My endorsement of S-2299 is not an effort to avoid a state responsibility.

Instead, I believe federal involvement can prevent unnecessary duplication of effort, promote uniformity in treatment of the problem and reduce the inherent legal obstacles caused by jurisdictional boundaries.

For these reasons I believe the Anti-Fraudulent Adoption Practices Act of 1984 is both a necessary and responsive measure. As previously noted, our goal is the prevention, detection and punishment of adoption fraud. The stiff criminal sanctions imposed by S-2299 ought to go a long way toward discouraging the shoddy adoption operations we have seen in the last few months. Certainly, the stakes will be raised beyond the civil fines available under state consumer protection laws. Moreover, the bill literally outlaws the unlicensed fly-by-night con artists in no uncertain terms. . . a restriction that, at least, Kansas law does not now contain.

With regard to the detection of fraudulent adoption activities, the expanded role of the U.S. Department of Health and Human Services in collecting and disseminating adoption data as well as the investigating of fraudulent adoption practices will greatly enhance the enforcement of existing and future state and federal laws. We would have been most grateful for such services in the initial stages of the Mexican orphan adoption scam in Kansas. Efforts by local and state agencies to ascertain the credibility of these adoption promoters were wholly unsuccessful. In the absence of a central clearinghouse for such information, even conscientious couples, licensed adoption agencies and state government agencies were not able to uncover the fraud early enough. At the time of their inquiries to a number of neighboring states, Iowa and Massachusetts were investigating. Unfortunately, the inquiries were not directed to the proper officials in Iowa or Massachusetts and the scam went undetected in Kansas until it was too late.

Finally, the bill increases the potential that fraudulent adoption agents will be brought to justice. In addition to the harsh criminal penalties, the substantial resources of the Justice Department and the FBI will be available to investigate and prosecute offenders. Moreover, the federal district courts will be opened to civil litigants in adoption fraud cases even where the amount in controversy is less than $10,000. The bill also calls for the award of attorneys' fees and punitive damages. Both of which are appropriate remedies for this type of case.

Summary

Many American families, including my Kansas neighbors, have been swindled by unscrupulous adoption promoters. While I will do everything in my power to recover their losses, I believe we are duty bound to thoroughly examine the baby selling business and restrict it to legitimate adoption activities. The potential for abuse and injury to potential parents and children is too great to ignore.

S-2299 is a fine piece of legislation. It demands Congressional approval and prompt executive implementation. It responds to the shortcomings inherent in state-by-state action by reducing duplication of criminal and civil legal procedings, promoting uniformity in regulating the adoption process and reducing legal obstacles to prosecution and recovery of civil damages. S-2299 attacks the fraudulent adoption schemes in a comprehensive fashion, through prevention, detection and punishment.

For these reasons I am proud to endorse the Anti-Fraudulent Adoption Practices Act of 1984. I trust you and your Congressional colleagues will act promptly on its passage.

Senator DOLE. Now, we are very pleased to have with us Linda and Mike Davis from Iowa.

I might say we had a Kansas couple invited, but the husband is ill.

We very much appreciate Mike and Linda being here.

Before you give your statements, I think Senator Jepsen would like to indicate what Senator Grassley would have said had he been here.

Senator JEPSEN. Yes. Linda and Mike, we welcome you here on behalf of Senator Grassley.

I would ask, Mr. Chairman, that his statement be entered into the record as if read.

Senator DOLE. It will be made a part of the record.

[The prepared statement of Senator Grassley follows:]

PREPARED STATEMENT OF SENATOR CHARLES E. GRASSLEY

Mr. Chairman, I welcome Linda and Mike Davis to this hearing and I am very sorry that I could not be present to hear their testimony. Linda and Mike were born and raised in Burlington, Iowa, about 30 mines from where they have made their home in Wapello. I only wish that their visit to Washington could be under happier circumstances. I understand that they were taping a segment at 6:30 this morning for Good Morning America so I imagine they are a bit tired.

Most of us are aware that State law governs almost every aspect of adoption. There are, however, many aspects of adoption that do transcend State boundaries. One aspect that Senator Dole's bill covers so well, has to do with the monitoring of interstate adoptions. The lack of formalized standards governing interstate adoptions invites the abuse that we are examining today.

By far the majority of adoptions in this country are provided in a legal, ethical manner, providing a valuable service to thousands of Americans seeking to open their homes to children and enrich the lives of all concerned. Just as an example, I would cite Holt International Children Services, an agency responsible for the Davis' successful adoption of their children Andy, Adam, and Amy.

Fifteen years ago 80 percent of unwed pregnant women gave up their babies for adoption. Today it is just the opposite—80 percent keep their infants to raise themselves. And, of course, many unmarried women are either using birth control successfully or are legally aborting their unwanted pregnancies.

As an example of how acute the baby shortage has become, the number of babies placed for adoption in 1975 by the world's largest agency, the Los Angeles County Adoption Agency, was only one-tenth the number it placed in 1965. At the same time adoption officials are noting an increase in the number of couples who want to adopt.

As the number of available children for adoption drop, anxious families become the easy prey of scam operations. The legislation before us would impose the appropriate sanctions in cases of adoption fraud. And importantly, the Federal Government will focus on gathering information in an area that is lacking in statistical information.

Senator JEPSEN. I would like to reiterate here, and quote Senator Grassley's statement with regard to the fact that by far, the majority of the adoptions in this country are provided in a legal, ethical manner, providing the management services to thousands of Americans seeking to open their homes to children, and enrich the lives of all concerned.

Just as an example, Senator Grassley cites the excellent work of International Children Services, an agency responsible for the Davis' successful adoption of their children, Andy, Adam, and Amy. I understand that you do have a picture today with you of those three youngsters. I would like, by way of introduction, Mr. Chairman, to give some perspective of this beautiful couple, who is now

appearing before us, by sharing with you a few facts about Mike and Linda Davis of Wapello, IA.

Both of them are 33 years old, born and raised in Iowa. They paid out $4,875 to Becci Kelley, and lost at least $500 more, trying to comply with the Mexican requirements for adopting. They presently have three children, Andy, 7, Adam, 6, and Amy, 15 months.

They adopted Andy about 5 or 6 years ago; Korean law required that the parents had to go to Korea if they were adopting a child under the age of 2. They spent about 10 days of their time in Korea, and are grateful that they had been able to see their children through this.

Linda mentioned that their second child came to them the day that Mike lost his job and had started a business on his own in May of 1982. It is the Odessa TV and Appliance Co.

Linda mentioned that if they had the money they had lost in the fraudulent adoption scheme they would go back to Korea, to show the children, all their children, their roots.

Linda has also stated that they would like to adopt another child. So I welcome the Davis family, and I thank my colleague Senator Grassley and his staff who have worked tirelessly with ours, to try to gather as much information as we possibly can in order that we might be of some constructive service. We must keep this whole sad situation of fraudulent adoption in perspective. We must stop abuses and make sure that we do not discourage any young future mothers who will give their children for adoption to the literally hundreds of thousands of couples around this country who are standing in line to adopt.

Welcome, Mike and Linda.

Senator DOLE. Thank you.

Let me just suggest that you can proceed in any way you wish. I do not know who is boss in your family, I know who is boss in my family, so I generally go last.

Mike, do you want to start, or Linda?

STATEMENT OF LINDA AND MIKE DAVIS, WAPELLO, IA

Mr. DAVIS. Well, first, I would just say that this picture kind of represents what adoption is all about, and that we are in no means unique as far as adoption, and there are literally thousands of families who have done adoptions.

Like you indicated, we hope that this does not discourage other families from the adoption process, private or through agencies, or anything else. Parents need kids, and kids need parents.

Senator DOLE. Linda, do you want to make a statement?

Mrs. DAVIS. Do you want to hear our story, briefly?

Senator DOLE. Right. Just tell us what happened, and I have some questions, but proceed in any way you would like.

Mrs. DAVIS. We had first met, made contact with Becci Kelley in 1980. She had promised us a child within 1 year. After, several children have been offered from Becci Kelley, and none came out, we had not received a child.

Debbie Tanner had also promised us one child. That was a total of five children offered to us, but none ever came to our home.

I do not know——

Mr. DAVIS. It is kind of almost impossible to believe what people think when they are waiting. You know, our friends say, well, you should have seen right through that. You know, waiting for a child, you see mostly what you want to believe, and I guess if there is anything again, we realize we are not alone, and it makes us feel a little bit better.

But we actually received a photograph that led us to believe that this was our child. As hazy and blurry as it is, we could see that baby with no problem at all. And so, just throughout the whole course of our working with Ms. Kelley, we just—one carrot dangled in front of another.

We actually thought that we were going to get this child, up until a certain point. We had a confrontation and things fell apart: after that, they deteriorated rapidly. So in the summer of 1982, we contacted the Iowa Attorney General's Office, and the investigators traveled to Mexico, and El Paso, trying to piece together facts, and so forth, and have done a pretty good job. But here again, because of distances, and really a lack of coordination, it is pretty hard to—we do not know the scope of the whole thing, and I do not know that we will.

Mrs. DAVIS. There are two points I would like to make. We did not bypass the agencies; there was nobody that would work with us at this time. Since we had already received one child, we were told that we would probably not receive another one.

I had written over 30 letters to different agencies, asking for a child, up to the age of 5. I would accept a special needs child, siblings, anything. Over half of the agencies would not even respond to me. This Mexican adoption was open to us; this is the only way we could see to increase our family.

Another thing I would like to make clear is that $4,500 is not an excessive amount for adoption. A lot of reporters have stated why did you pay so much money. This is not an excessive amount. For each of our children, we paid approximately this amount.

Senator DOLE. How old are your children now?

Mrs. DAVIS. Seven, six, and fourteen months.

Senator DOLE. Is that a notebook you have there?

Mrs. DAVIS. Yes, this includes letters to Becci Kelley, notes that I have kept that we have corresponded with Becci Kelley. I had entitled it Amy; it is now entitled the Mexican mess.

Senator DOLE. How did you learn about adoption services? Through the newspaper ad, or direct contact?

Mrs. DAVIS. There was a newspaper ad, with the number on it. I wrote to this couple, asking if they had success in adopting a child. They in return sent me Becci Kelley's name, and we contacted her.

Senator DOLE. Do you have a copy of that ad with you?

Mrs. DAVIS. The letter from Becci Kelley?

Senator DOLE. No, the ad.

Mrs. DAVIS. The ad, yes.

Senator HATCH. Mr. Chairman, I wonder if we could put the appropriate part of the notebook in the record?

Senator DOLE. Yes.

Mrs. DAVIS. It is just a little——

Senator DOLE. Could you just read it to us?

Mrs. DAVIS. It says a young couple wants to adopt. If you can help, please write Box 51, Bedford, IA.

Senator JEPSEN. What was that again? Young couple wishing?

Mrs. DAVIS. Young couple wants to adopt. If you can help, please write Box 51, Bedford, IA.

Senator DOLE. You put the ad in the paper?

Mrs. DAVIS. No, this was a couple, Dwight and Glenda Wetzel of Bedford, IA. They had been advised to write the ad by Becci Kelley. They later did adopt a Caucasian child through Becci Kelley.

Senator DOLE. Have you talked to Becci Kelly, personally?

Mrs. DAVIS. Yes, we have, several times. She was the person we dealt with.

Debbie Tanner, we had talked to occasionally. We had received letters, signed Señor Lopez, which we later learned is Bryan Hall. But Becci Kelley is the one who—we worked with, she stated she was a social worker, which we also learned she is not. She represents the Eastern States, on behalf of the Mexican adoptions.

Senator JEPSEN. Mr. Chairman, getting back to this ad. This ad was put in by another couple wishing to adopt. How did that then connect with you?

Mrs. DAVIS. I wrote, asking if they had success with adopting a child this way. If they did have success, I might have tried placing my own ad.

Senator JEPSEN. Then after you wrote them asking if they had any success, then what happened? Did they refer you to——

Mrs. DAVIS. Yes, they referred us to Becci Kelley. They referred us to Becci Kelley. We made contacts back and forth over the phone.

Senator JEPSEN. At what point did Becci Kelley ask you for money?

Mrs. DAVIS. Within the first month she asked us for $75, to be placed on her Caucasian list. This was for a Caucasian baby.

Senator JEPSEN. And how did you proceed then, to get, as I understand, you paid her $4,875? Would you tell the committee how that came about?

Mrs. DAVIS. In February of 1981, Becci Kelley called and asked us if we would like to be the parents of 8-month-old twin girls being born in Mexico. We said we would. We sent $300 application fee at this time. She said we would have them home by April. The longest wait would be our fingerprints through Immigration.

Later she said the mother would not sign a release, would we take a newborn baby girl. We said yes. In July of 1981, she called and said you have a baby girl, born in May, and this is the picture of the baby, supposedly.

We sent her the money, $4,500, in July and August.

Senator JEPSEN. How much money did you send her?

Mrs. DAVIS. $4,500.

Senator JEPSEN. Is that the standard agreed to fee?

Mrs. DAVIS. It had actually gone up. She had originally told us it would be $3,000.

Mr. DAVIS. There is also, I think, about a $300 preliminary Mexican application fee, that went along with that.

Senator JEPSEN. Did this in any way differ from the fees that you had paid before, to your agency, that you adopted your other children from?

Mr. DAVIS. Well, I guess the dollar amount ends up to be about the same, but with Children Services we get a scheduled list of expenses, travel expense and placement studies expense, adoption expenses, things of that nature.

Senator DOLE. Were you asked to furnish any information, a financial disclosure statement, or any of the other normal things that you would furnish for any adoption process, when you are trying to obtain a child?

Mrs. DAVIS. We were asked to mail our birth certificates, marriage certificates, mail them to the Mexican Consulate, to have their seal put on, and mailed to Señor Lopez. Also an application stating height, weight, annual income, et cetera.

Mr. DAVIS. But they do not really ask for financial statement, as such.

Senator DOLE. Did you ever break down the fees, how much was travel, and doctors, hospitals?

Mrs. DAVIS. It varied from time to time. Sometimes foster care was going to be $1,000, sometimes it was to be $2,000. It never stayed the same.

Senator DOLE. Did all this take place by telephone, or letters, with Becci Kelley, or——

Mrs. DAVIS. Mostly by phone.

Senator DOLE. Never had any written agreement on the adoption? You just called it the twins, and if not the twins, then the baby girl?

Mrs. DAVIS. We received letters from Señor Lopez stating that he had received our money, our papers were being processed, we would be united with our children, be patient.

Senator DOLE. Again, do you have a copy of that letter?

Mrs. DAVIS. Yes.

Senator DOLE. I think what we might like to do, without having you go through your notebook now, is make copies of relevant parts of that part of the record, if you do not have any objection. We could determine the fact that there is some issue to address.

Senator Hatch?

Senator HATCH. I just have a great deal of sympathy with what you have gone through. But one question.

You indicated that the adoption agencies have chatted with you, said that because you already had one adopted child, that you probably could not get another one.

Do you have any documentation that any licensed adoption agency would not consider placing a second, or another child in your home, because you had already adopted one child?

Mrs. DAVIS. I probably have some letters at home.

Senator HATCH. We would be interested in seeing that, because I think under present law they may not be entitled to do that.

Mrs. DAVIS. They had said they did not care how we received our child, we had one child.

Senator HATCH. We would like to have you submit whatever documentation that you have from those people.

I might add that I am concerned about that type of lack of knowledge also. So if you could help the committee to that extent, we would appreciate it.

[The following material was subsequently submitted for the record:]

dining
canoeing. Nonsmok
Would like to meet
who is sensitive, sincere,
and looking for an honest re
tionship. Burlington area.
Send letter in confidence to Reg
ister and Tribune Box X-918
WANTED, Man age 29 to 45 for
dating, dinning, camping and
companionship. Ph: 515-236-4597
WANTED: RAGBRAI VIII Vehi
cle Pass. Will Pay going Price.
Call Collect 319-495-2709 or 2701
THESIS and Short paper typist
Grammer editing. Technical and
non-technical articles. 278-9928
WANTED—Person to drive '75
Chevelle to Ventura, CA soon as
poss. Gas paid. Refs. 225-0788.
YOUNG COUPLE wants to
adopt. If you can help please
write: Box 51, Bedford, Ia. 50833.
"I B " For Presidool bumper
stickers. Mail $1 each to Ada
Pierce, Box 202, Maxwell, Ia.
DIAL YOUR FAMILY BIBLE
285-2709
CUT HEAT, TAX, FOOD BILLS
See our ad General Services 270
CASH NOW for diamonds, ster
ling, guns, jewelry, etc. 243-5234

TRANSPORTATION
TRAVEL 150

DENVER Need Rider to share
expenses. 6-23. 244-7707

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counseling. Women's
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MEXICAN ADOPTION PROCEDURE

STEP #1 Fill out Mother and Father Information sheet. Send it along with photograph of Mother and Father only, and $500.00 (non-refundable) for leg work and telephoning purposes to: Becci Kelley - Route 1 - New Market, Iowa - 51646

STEP #2 Contact nearest Immigration & Naturalization Office. Tell them you are adopting an orphan in Mexico and would they please send you an adoption packet. In the packet should be the following:

A. Fingerprint Cards Take these to your local police station. Both husband and wife get fingerprinted. Make sure the officer signs in the space allowed on the cards.

B. I-600 Form Staple a letter to this form saying that you will send the information later.

C. Affadavit of Support You fill out the second page and prepare the following supportive evidence:

1. Man and wife birth certificates
2. Marriage certificate
3. Employment verification, salary, etc.
4. Reference of economic stability from bank, total deposits last year, present balance, date account opened.

Now return this information to the Immigration office where obtained, along with a letter asking them to pre-process you and that you expect a referral of a Mexican child.

STEP #3 Apply for personal passport. Both husband and wife. They will tell you a passport is not necessary for travel in Mexico, but you must have one to adopt a child.

STEP #4 Apply for a homestudy from any adoption agency or county social service. Remember to keep your facts straight when applying, you are not going through the Tanners or Becci Kelley. Your adoption is being done by a Mexican lawyer, Lic. Lopez and you are bringing the child home through U.S. Immigration.

STEP #5 Start on papers for Mexican court and Mexican lawyer. Copies of the following are attached for you to compare:

1. Original of both birth certificates.

II. Original of marriage certificate.

III. One personal reference.

These do not mention your religious views or go into depth, keep them simple and short. Do not mention other family members. This is a reference for the mother and father. Be sure to use formal full names at all times. They must be on letterheads and preferably from a doctor, lawyer, or owner of a business. They do not want to know what good parents you are; just how upstanding and stable you are in the community.

IV. Reference of Economic Stability. A letter from your bank on their letterhead stating date account opened, total deposits last year and present balance.

V. Employment Verification. A letter from your employer stating yearly salary, type of job and stability at that job. Person signing letter should state his position in salutation.

STEP #6 Send zerox copies of all papers Becci Kelley - Route 1 - New Market, Iowa - 51646

STEP #7 Birth and Marriage certificates must be sent to the Mexican Consulate over the area in which they were issued. The remaining papers III,IV, & V, go to the Secretary Of State - Capital Building - Des Moines, Iowa. Now send the papers to the Mexican Consulate over your area for their stamp. Enclose $11.00 for each paper to be stamped; this must be a cashiers check, and a stamped self-addressed envelope. When you get these back send them on to Becci Kelley. All information in this procedure is based on past adoptions, and is subject to change without prior notice.

NOW - WAIT FOR A REFERRAL

These will be the approximate costs incurred for the Mexican adoption:

A. Application fee - $500.00
B. Referral fee - $4500.00
C. Foster Care bill - $500.00 to $1000.00

Documentos que deben presentarse para la expedición de PODERES GENERALES Y ESPECIALES

a) Redacción del TEXTO DEL PODER QUE SE DESEA OTORGAR, preparado por Notario Público de México o por la Institución Bancaria o Financiera, de acuerdo con las necesidades de la gestión o trámite que hará el apoderado en representación del poderdante; el cual servirá de guía unicamente para el Poder Notarial que redactará este Consulado General.

b) Para COMPRA-VENTA de terrenos o casas, especificar claramente la ubicación (calle, número, punto cardinal hacia el que esta orientada la acera, lote, sección y manzana). Superficie en metros cuadrados, linderos con sus respectivas medidas y orientación (los linderos deben especificar claramente el nombre del propietario o número del lote colindante). Si es fraccionamiento o colonia, proporcionar el nombre completo.

c) El otorgante y el cónyuge (en caso de que éste necesite dar su consentimiento) deben identificarse con cualquiera de los siguientes documentos: Pasaporte Mexicano, Tarjeta de Matrícula o Cartilla del Servicio Militar Nacional.

d) El otorgante pagará por adelantado los derechos correspondientes determinado por la Tarifa Notarial.

e) Datos personales del otorgante: Birth place

Nombre completo:_____ Edad:_____

Nacionalidad:_____ Estado Civil:_____

Ocupación:_____ Teléfono:_____

Domicilio:_____ Ciudad y Estado:_____

Manifestar su causa el Impuesto Sobre la Renta en México: _____

Se identificó con: Nº_____

Firma: Date of Issue_____

Consentimiento del Cónyuge: "Presente y ante este Consulado General, doy mi amplio consentimiento para que mi esposo (a) otorgue y firme el Poder que se describe en el FORMATO que se anexa al presente, firmando el calce para ratificar mi consentimiento".

Se identificó con:_____

Firma:_____

Datos personales del apoderado:

Nombre completo:_____

Domicilio:_____

OBSERVACIONES:

----------ESCRITURA NUMERO TRESCIENTOS TRES----------

----------ACTO NOTARIAL NUMERO DIECISEIS----------

----------VOLUMEN II FOJA: CINCUENTA Y CINCUENTA Y UNO--------

---En la ciudad de Denver, Colorado, Estados Unidos de América, a los trece días del mes de abril de mil novecientos ochenta y uno, ante mí, licenciado Octavio Vázquez E., Cónsul de México en esta ciudad, actuando en funciones de Notario Público, de acuerdo con lo dispuesto en los artículos quince fracción cuarta de la Ley Orgánica del Servicio Exterior Mexicano y doscientos uno fracción quinta y trescientos cuarenta y uno del vigente Reglamento de la Ley del Servicio Exterior Mexicano de treinta de abril de mil novecientos treinta y cuatro, comparecieron los señores [redacted] y manifestaron: Que por medio del presente instrumento confieren al señor licenciado LORENZO PROSPERO ARZOLA, con domicilio en P.O. Box 17878, EL Paso, Texas 79917, E.U.A., PODER GENERAL para pleitos y cobranzas, administración de bienes, actos de dominio, todas las facultades generales y especiales que requieran cláusula especial conforme a la Ley, en los términos del artículo dos mil quinientos cincuenta y cuatro del Código Civil para el Distrito Federal y para toda la República en materia Federal, quedando el mandatario autorizado para desistirse del juicio de amparo, para transigir o comprometerse en árbitros y para que represente al mandante ante toda clase de autoridades tanto federales como locales, con las facultades más amplias para el mejor desempeño del mandato, aunque no se encuentren aquí expresadas. La única limitación es que este poder lo ejercerá única y exclusivamente en asuntos relacionados con la adopción de un menor.----------

YO, EL CONSUL DE MEXICO ACTUANDO EN FUNCIONES DE NOTARIO PUBLICO,

----------CERTIFICO:----------

UNO.- Que conozco a los comparecientes quienes tienen capacidad legal para contratar y obligarse.----------

DOS.- Que por sus generales manifestaron bajo protesta de decir verdad, llamarse como queda escrito, ser el primero de treinta y un años de edad, de nacionalidad estadunidense, casado, de ----------

ocupación operador de turbina para la compañía "National -- Electric Company", originario de [redacted]. -- con domicilio en [redacted], E.U.A. y que no causa el Impuesto sobre la Renta en México: la segunda ser de veintiocho años de edad, de nacionalidad estadunidense, casada, de ocupación hogar, originaria de Cedar City, Utah, E.U.A., con el mismo domicilio y que tampoco causa el Impuesto sobre la Renta. -----

TRES.- Que le leí la presente escritura, explicándole el - valor y fuerza legal de la misma, así como que no necesita - presentar el testimonio que de La misma se expida, a la Secretaría de Relaciones Exteriores en México, para que se legalice la firma que lo calza y estando conforme con su contenido, lo ratificaron y firmaron el mismo día de su otorgamiento.-Doy fe. Otorgantes: (Firmas).- Ante mí, licenciado Octavio Vázquez E., Cónsul de México actuando en funciones de Notario Público.- -- Firma y sello.----------

El trece de abril de mil novecientos ochenta y uno, en el lugar de su otorgamiento autorizo definitivamente el presente instrumento.- Doy fe.- Lic. Octavio Vázquez E., Cónsul de - México.- Firma y sello.----------

----------ANOTACIONES MARGINALES----------

----------PRIMERA----------

Derechos notariales devengados.- Conforme al Decreto Presidencial del 18 de abril de 1978, Art. 2o. Fracc. III a) $1,125.00 M.N., equivalentes a Dls. 49.50----------

----------SEGUNDA----------

El trece de abril de mil novecientos ochenta y uno se expidió primer testimonio.- Doy fe.- Rúbrica.----------

Artículo 2,554 del Código Civil para el Distrito Federal y toda la República: "En todos los poderes generales para pleitos y cobranzas bastará que se diga que se otorga con todas las facultades generales y las especiales que requieran cláusula especial conforme a la ley, para que se entiendan conferidos sin limitación alguna".----------

"En los poderes generales para administrar bienes, bastará expresar que se dan con ese carácter, para que el apoderado tenga toda clase de facultades administrativas".----------

"En los poderes generales, para ejercer actos de dominio, bastará que se den con ese carácter para que el apoderado tenga todas las facultades de dueño, tanto en lo relativo a los bienes, como para hacer toda clase de gestiones a fin de defenderlos".----------

"Cuando se quisieran limitar, en los tres casos antes mencionados, las facultades de los apoderados, se consignarán las limitaciones, o los poderes serán especiales".----------

"Los notarios insertarán este artículo en los testimonios de los poderes que otorguen."----------

ES PRIMER TESTIMONIO SACADO DE SU MATRIZ PARA EL APODERADO SEÑOR LICENCIADO LORENZO PROSPERO ARZOLA A FIN DE QUE LE SIRVA DE COMPROBANTE DE SU PERSONALIDAD A QUE SE REFIERE ESTE INSTRUMENTO. VA EN TRES FOJAS UTILES, DEBIDAMENTE COTEJADO Y CORREGIDO.- A LOS TRECE DIAS DEL MES DE ABRIL DE MIL NOVECIENTOS OCHENTA UNO.- DOY FE.

EL CONSUL DE MEXICO ACTUANDO
EN FUNCIONES DE NOTARIO PUBLICO.

Lic. Octavio Vázquez.

ESTADOS UNIDOS MEXICANOS
CONSULADO DE MEXICO
DISTRITO FEDERAL

LIC. M. LOPEZ Z.

COL. FCO. SARABIA S/N
JUAREZ, MEX.

P. O. BOX 17878
EL PASO, TEX. 79917

September 30, 1981

Mr. & Mrs. Davis
Route 2 Box 279
Wapello, Iowa
U.S.A. 52653

Dear Mr. & Mrs. Davis,

This letter is to advise you that we have received the monies para nino's adoption. We have received the monies in Juarez, and will hold in Escrow account until finalization of adoption. We have also received the necessary paperwork to petition for adoption. At this point we do not need further assistance concerning adoption.

We hope you can be patient with us in completamiento of Davis adoption. At this point there is not much to tell you, other than you have a healthy baby, and we'll do everything we can to process it as fast as possible.

The normal proceedure is for you to receive a letter of verification concerning monies, then mid way through adoption a letter verifying adoption is or is not proceeding normally through court. Towards the end of finalization you will receive a color photo of your nino, along with necessary documents for immigration to obtain passaporte and visa.

We are most happy to be working for you and will try our best to do a good job . Thank you for concern, and feel free to write us anytime.

Sinceramente,

rec'd fall 81 SEPT.

Mexico:

Childs Progress Report: Baby is doing fine. Baby has gained 6 lbs.

Sex: Female

Childs Name: Amy Kathleen

Birthplace: Gomez Palacio Durango

Race: Spanish

Location of foster home: Gomez Palacio Durango

Physical Condition: Healthy baby

Weight at birth: 7.2

Hair: Dk. Brown

Eyes: Black

Identifying features: none

Medical History: Bio mother has no history of any medical problems

Developmental History: Baby sleeps most all night. Good baby.

Physical: Adoptable baby

Emotional and social Development: good baby mother (foster mother) is veryattached to this baby.

Evaluation and Recommendation: Baby is adoptable. Passed Physical 6-2-81

November 25,1981

Dear Linda and Mike,

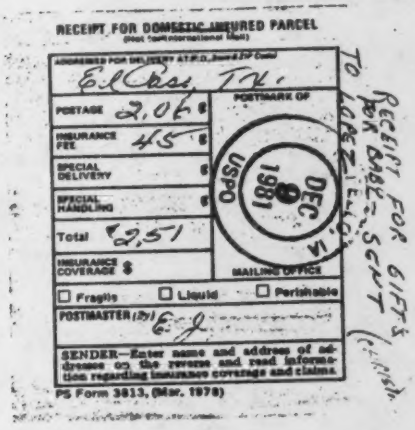
I recieved word from Mexico that your papers are approximately half way through court. This means you may have some time left to wait. Your papers are being accepted by the judges which is good.Also remember the month of Dec. is a big holiday month in Mexico. After your papers are through you will be given the option to take a new born or possably keep the child assigned to you. When the last paper is done which is the adoption decree then the child is guaranteed to be yours. Until this happens the mother could cause trouble. If you choose to take a new born the child would be app. 6 weeks old.

I also need to know for my records if you are still interested in staying on my list for an infant here, if not I will apply the $75.00 to your babysitting fee when it is due in Mexico.

I must congratulate on your patience. Just keep up the good work and you will be satisfied.

Sincerely,

Becci Kelly



LIC. M. LOPEZ Z.

COL. FCO. SARABIA S/N
JUAREZ. MEX.

P. O. BOX 17878
EL PASO. TEX. 79917

January 12, 1982

Mr. & Mrs. Michael Davis
Route 2 Box 279
Wapello, Iowa
U.S.A. 52653

Dear Mr. & Mrs. Davis,

this letter is to inform you that the adoption court is now back to work. The courts have been on vacation for about 4 weeks. The adoption court was late coming back in, but they have all resumed.

We must ask you to be patient at this point. The courts are going a little slower than we'd have them, but the wait will worth everything you go through to that point, when you receive your approval and legal documents.

Once they approve you as adoptive parents, we will be in touch with you, to make arrangements for you both to travel to Juarez to see the child you adopt, and sign any necessary papers to speed the last step up.

Please be patient, and feel free to write us anytime. Also, please inform your counselor in your area of this correspondence. Gracias.

Sinceramente,

HALL TRANSLATION & INTERMEDIARY

P.O. BOX 17878
EL PASO, TEXAS 79917

June 25, 1982

Mr. & Mrs. Michael J. Davis
R.R. #2 Box 279
Wapello, Iowa 52653

This letter being written for Attorney Prospero, translated by Bryan M. Hall:

Dear Mr. & Mrs. Davis,

In referance to your letter dated 5-4-82, we recieved three thousand eight hundred dollars, plus five hundred dollars for the application fee, which is non-refundable as stated in your Mexican adoption information sheet.

You had a child before, but as we were working on that referral we had several problems obtaining the release, thus we were not able to complete the paperwork on that referral. We did not inform Mrs. Kelly or Mrs. Tanner of this problem, as we knew we could find you another referral. And since that time we have continued working on your behalf to locate you another referral.

We were informed in the last seven months that you were working through "HOLT" in connection with a Mrs. Betsy Quinn, accepting another international referral from Korea. And we were confused as to which international adoption you were going to persue, or if you were going to try to do both.

We are still confused as to your desires, as you have told our liaison in Colo. that you wish to continue your Mexican adoption, just put a hold on it.

As far as Mrs. Kelly, if you plan to continue through our firm with a Mexican adoption you will be required to work with her, as she is our liason in that area, or work directly with us through letters. The reason being we do not speak english, and Mr. Hall does not work full time for us, so language is a problem.

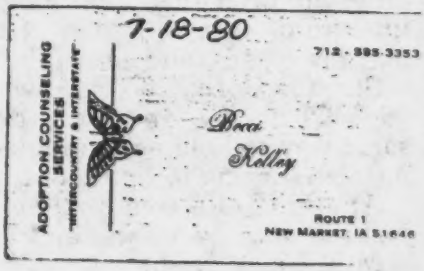
We would like to have your feelings on this matter, and please let us know your desires as soon as possible.

Sincerely,

Bryan M. Hall

Translated by Bryan M. Hall
For Attorney Prospero

cc/Mrs. Kelly-Mrs. Tanner



Mr. DAVIS. Senator, some of the agencies represent certain religious-related, like Catholic.

Senator HATCH. Maybe they do not understand the law.

Mr. DAVIS. Well, I am not sure that they fall under certain laws, there is a certain gray area. A lot of times it was simply because we live on the wrong side of the line, the boundary line.

Senator HATCH. Well, thank you.

Senator DOLE. That is good.

Of the total amount you paid in all of these different—amounted to what, $4,875?

Mrs. DAVIS. That was to Becci Kelley.

Senator DOLE. And you received none of it? None of it has been repaid?

Mrs. DAVIS. No.

Senator DOLE. Have you made a request from Becci Kelley for repayment?

Mrs. DAVIS. Yes. By telephone and by letter.

Senator DOLE. Have you taken any legal action against Becci Kelley, to recover the money?

Mr. DAVIS. The Iowa attorney general has filed a petition, consumer fraud, under the Protection Act, to recover the money from Ms. Kelley. There has been no real trial yet.

Senator DOLE. I am not certain that she has the money. Did you pay by cash, check, money order, get a receipt?

Mrs. DAVIS. Check and wire. We wired the money.

Senator DOLE. Is there anything else that comes to your mind that might be helpful? Obviously, it would not be of any benefit to you, but it may be of benefit to others in the future and would be helpful in our effort to draft appropriate Federal legislation. We want to be sure that we do not interfere with what should be the States' rights in adoption matters. However, when we get into interstate and international areas of adoption, I think the Federal Government has some responsibility.

Mr. DAVIS. I think the interstate compact laws, they were set up to help both children and parents. In other words, you know, to help promote adoption, but I think because different States have different priorities, and budgets, and so forth, a lot of times the interstate compact system, I think, is sorely breaking down in the last few years, and probably needs a good injection of something.

Senator DOLE. Do you have anything else that you would like to add? Obviously, you were defrauded of $4,875. There should be some way to hold accountable those who are responsible. This committee is trying to figure out how to do it.

Anything else that you can add? As I understand, the notebook just has your own notes and letters?

Mrs. DAVIS. Right.

Senator DOLE. If you do not mind, we might have the staff leaf through it, and include in the record any appropriate material.

Mrs. DAVIS. OK.

Senator JEPSEN. Having gone through this, both having adopted children successfully and having this unfortunate experience of not having one that you expected to be adopting, do you have words of advice for people who want to adopt children?

Is there any statement you would make to those hundreds of thousands of couples in this country who want to adopt a child?

Mr. DAVIS. I would say, do not give up. Like you have indicated, there are literally hundreds of thousands of kids that need parents, and there are parents waiting for kids. They do not have to be perfect kids. There is no perfect kid, and I do not think there is any perfect parent. But there has got to be a solution.

I think, for people who are considering adoption, if they pursue it, and do not give up, I mean, we are the bad experience, but there are thousands of good experiences, and you should just pursue it.

Senator JEPSEN. Is there a reason why you went all the way to Korea to get your oldest child? That's right, isn't it?

Mr. DAVIS. That is right, sir.

Senator JEPSEN. Why was that, sir?

Mrs. DAVIS. It was required at the time for anybody adopting a child under 2 years of age, to travel to Korea.

Senator JEPSEN. I see, but had you tried to adopt one in this country, or did you just——

Mr. DAVIS. Yes, we had. We had been to the Iowa Department of Social Services, we have been on their list since 1977 now.

Senator JEPSEN. You have been on the list since 1977, and what was the name of the——

Mr. DAVIS. Iowa Department of Social Services.

Senator JEPSEN. Iowa Department of Social Services. And what do they do, do they list you as a couple eligible to adopt children, is that when you get on a register?

Mr. DAVIS. Yes, sir.

Senator JEPSEN. And you were on that register since 1977, as being desirous of adopting a child? That is 7 years!

Mr. DAVIS. Yes, sir. That is not an uncommon wait, with no real hope.

Senator JEPSEN. So then is it accurate to say that because you were wanting an adopted child but were not getting any action here within this country, you looked outside of this country to adopt?

Mr. DAVIS. That would be an accurate description.

Senator JEPSEN. That would be an accurate statement.

Have you become acquainted with any other couples who have adopted children?

Mrs. DAVIS. Yes, we know parents in several States. The parents that traveled to Korea with us, we have maintained contact with them. We belong to an adoption group in the Burlington area, we go to several adoption gatherings throughout the State, so our children do know they are adopted. They do see other kids when they are adopted, and we are actively helping to seek funds to help these children in Korea.

Senator DOLE. We want to thank you very much. We may have additional questions. We may try to find additional information as we get further into this. You will probably be contacted by telephone or letter, by myself, or someone on our staff.

We appreciate your coming and taking the time to be here. We hope we can be of some assistance, at least with future couples who have a problem in the future.

Thank you.

Mr. DAVIS. Thank you, Senator.

Senator DOLE. We next have a panel, Ms. Ann Swift, director of the Office of Citizens' Consular Services; John Keeney, Deputy Assistant Attorney General of the Criminal Division; Mr. Andrew Carmichael, Associate Commissioner for Examinations, Immigration and Naturalization Service. And also, I think we could just ask Louise Pittman to join us.

Senator Denton wanted to be here for Ms. Pittman but, Louise, if you will join us at the panel.

Ms. Swift, do you want to commence?

And I would say to all of the witnesses, your statements will be made a part of the record. If you can summarize your statements and hit the highlights, it will be appreciated.

Thank you very much for being here.

STATEMENTS OF MS. ANN SWIFT, DIRECTOR, OFFICE OF CITIZENS' CONSULAR SERVICES, DEPARTMENT OF STATE; JOHN C. KEENEY, DEPUTY ASSISTANT ATTORNEY GENERAL OF THE CRIMINAL DIVISION, DEPARTMENT OF JUSTICE; ANDREW J. CARMICHAEL, JR., ASSOCIATE COMMISSIONER FOR EXAMINATIONS, IMMIGRATION AND NATURALIZATION SERVICE; AND LOUISE PITTMAN, DIRECTOR, BUREAU OF FAMILY AND CHILDREN'S SERVICES, STATE OF ALABAMA DEPARTMENT OF PENSIONS AND SECURITY

Ms. SWIFT. Thank you very much.

If you do not mind, I think I will quickly read through my statement, because I think I can go faster this way.

Senator DOLE. Sure.

Ms. SWIFT. I am very pleased to have the opportunity to appear before the subcommittee today to discuss some of the problems involved in international adoptions.

In the last fiscal year the Department of State issued 7,350 adoption visas to children being brought to the United States from abroad. More U.S. visas were processed for children adopted from Asia than any other part of the world. Adoptions from Asian countries are handled mainly through established agencies, and cause us few problems.

In recent years, however, U.S. citizens, Canadians, and Europeans have started to turn to the Americas seeking children to adopt. As large-scale intercountry adoption is a relatively new phenomenon for Latin America, few of these countries have well defined laws and policies which address the issue.

The majority of intercountry adoptions involving Latin American children are, no doubt, successful in providing the deprived child with a home and family. However, as in any endeavor with excessive demand, the international adoption field offers an open invitation to some unscrupulous opportunists. The practice of arranging for adoptions through informal intermediaries has come to be known as the "gray market." As this "gray market" is not regulated, it has led in some instances to fraud perpetrated against would-be adoptive parents and to practices legally and morally wrong, such as buying and selling of babies, some of whom would not qualify as proper adoptive cases.

The Department of State and our Counsular Officers become involved in two main aspects of the adoption process abroad. The first is the issuance of visas to adopted children, or children to be adopted in the United States. The second is attempting to assist prospective parents when they get into difficulties in their adoption efforts. Foreign adoption laws are often cumbersome, and legitimate adoption procedures are often lengthy and frustrating. It is our experience, however, that when the adopting parents follow established procedures in the foreign country, and avoid short cuts, they ultimately save time, effort, heartache, and money.

We have identified two major problem areas in foreign adoptions: (1) Attempts by adopting parents to obtain fraudulent documentations; and (2) fraudulent practices of individuals or agencies who promise speedy adoptions through the "gray market."

At times, prospective parents try to shortcut the adoption process by attempting to obtain U.S. visas or U.S. passports for they adopted children by fraudulent means. When these efforts fail, they try to smuggle the children out of the country and into the United States. This practice has several negative consequences in addition to the attempt to violate U.S. immigration laws. First, the U.S. citizen runs the risk of arrest and imprisonment in the host country for kidnaping and violations of its migration laws. Second, if the adopting parent reaches a U.S. port of entry, he must either try to continue the fraud with the Immigration and Naturalization Service, or request humanitarian parole from the Immigration and Naturalization Service in order for the child to enter the United States. Legally, under U.S. immigration law, such a child could be denied entry and returned to the host country. Finally, when the child has been brought into the United States as a result of a questionable adoption, the adoptive parents may find themselves faced with a demand for the return of the child from the natural parents, or the threat of extortion.

The second major problem area is difficulties encountered by prospective parents in seeking children through the "gray market." Many U.S. citizens advance large sums of money, sometimes well in excess of $10,000, to agents in the United States or abroad in the hope that the adoption of a child can be arranged quickly. Although the adoption process is expedited, the adoption may not be legal.

While the U.S. citizen may obtain physical custody of the child in the foreign country, there is little chance the child will be permitted to leave the country legally without a delay of as much as a year or more. During this period, the foreign authorities often require a home study, and look into the legality of adoption of the would-be parents under local law. Often U.S. citizens discover that, after a frustrating delay, the expenditure of considerable amounts of money and mental anguish, the child will not be released to them by the foreign court.

As you know, Mr. Chairman, the Department of State recently established a study group on the international adoption of minors. This group has been working to prepare the recommended U.S. position on the Inter-American Draft Convention on the Adoption of Minors, which may be adopted at the conclusion of the Third Inter-

American Specialized Conference on Private International Law in La Paz in April/May 1984.

While the Draft Convention focuses primarily on the law that is to apply to various stages and aspects of international adoptions, the study group has singled out several specific problem areas in international adoptions: Inadequate preparation of families by agencies for cross-cultural adoption; lack of information sharing between families and agencies concerning adoption laws, policies, procedures, practices and risks; no followup after the placement of the child in the new home; no protection for the child or family in case the adoption fails.

We hope that the above-mentioned Inter-American Convention or a separate convention will eventually address some of these substantive problems, although inter-American work in this area is still in the beginning stages. In the meanwhile, we in the Department of State have been trying to identify specific problem areas in international adoptions. When we have done so, we will work with the international adoption community and the Immigration and Naturalization Service to try to find solutions.

The careful attention by our Consular Officers abroad to requests for adoption visas and reports of birth makes it very difficult for illegal operators to use U.S. visas or documentation to smuggle children into the United States. We will continue to try to help prospective parents with advice on the regulations covering adoptions in foreign countries. The Department of State has issued travel advisories in some cases, and made available flyers and information sheets on a variety of adoption questions. And finally, we will, of course, continue to assist Americans whenever they find themselves in trouble abroad.

I hope this brief summary will be helpful, and would be glad to try to answer any questions you may have.

Senator DOLE. Thank you very much.

Mr. Keeney?

STATEMENT OF JOHN C. KEENEY

Mr. KEENEY. I know you are going to have some questions, particularly for me, Mr. Chairman, so I would just offer my statement, and I just want to hit a few of the highlights of the statement.

We focus on the extent of the problem in the area of adoption and permanent free care. We also focus on the extent to which existing criminal statutes adequately provide an avenue for prosecution of this sort of behavior, and third, we focus on the difficulties which the proposed bill, as drafted, presents from a law enforcement perspective.

Mr. Chairman, because the number of cases of abuse in this area has not been ascertained with any specificity, it is difficult to conclude that the area of adoption fraud is one whose scope demands the remedy of specific legislative action, particularly in the criminal area, and I am sure that you are going to have questions in this area, and I am prepared to develop why we think we do not have sufficient information at this point, Mr. Chairman.

Our initial suggestion is that further intelligence be developed concerning the scope of this problem from a law enforcement viewpoint, before any particular legislation is passed.

There are several sections of the existing Federal criminal code which provide remedies to address the evils of fraudulent adoption practices. These statutes include the conspiracy, mail fraud, wire fraud and interstate transportation statutes. These statutes punish the use of the mails or interstate wire facilities, or certain interstate travel in connection with or in furtherance of a scheme or artifice to defraud.

The conspiracy statute punishes the concerted activities by two or more persons to violate one of these other statutes, or to defraud the United States, defraud the United States by impeding the carrying out of its function by the Immigration and Naturalization Service.

Federal investigations in the area of potential fraudulent adoption practices involving several hundred couples are now pending, in other words, leads are out, Senator, to interview a minimum of 200 people at this particular time.

The investigative agencies involved, primarily the FBI, are utilizing the mail and wire fraud statutes, and we think we can utilize them without difficulty. However, we do realize that there may be several areas where the present criminal code provides loopholes in adoption fraud.

Mr. Chairman, these are the same loopholes that exist with respect to fraud violations in general.

In sum, the existing Federal criminal code would appear to cover many of the areas of potential abuse in adoption fraud, and would provide no less effective enforcement than now exists for other sorts of fraud schemes, involving nongovernmental victims.

Mr. Chairman, we have several technical suggestions. We have a jurisdictional suggestion with respect to the false statement provision, we also have a technical suggestion with respect to materiality. But I am not going to go into those at this time.

We also have some comments to make with respect to the transportation provision, and with respect to the civil recovery. Since it is not primarily the Federal Government that is involved in that, I am just going to rest on my statement, and that concludes my remarks, Mr. Chairman.

Thank you.

Senator DOLE. Thank you.

[The prepared statement of Mr. Keeney follows:]

Prepared Statement of John C. Keeney

Mr. Chairman, I am pleased to be here today to present the views of the Department of Justice concerning S.2299, entitled the "Anti-Fraudulent Adoption Practices Act of 1984". The comments of the Department will focus upon three aspects: First, the extent of the problem in the area of adoption and permanent free care; second, the extent to which existing criminal statutes adequately provide an avenue for prosecution of this sort of behavior; and third, the difficulties which the proposed bill, as drafted, presents from a law enforcement perspective.

I should note here that we defer to the Department of Health and Human Services with respect to the provisions of the bill which would be applicable to that agency. We understand that HHS may be providing the Senate with its views on this bill at a later date.

A. The Extent of the Problem

The number of prospective parents in the United States seeking to adopt a child far exceeds the number of couples who actually receive a child. This disparity, among other factors, has resulted in an increase in the number of applications for, and actual adoptions of, children, which require transportation of the child across foreign or interstate borders. Each year, the increasing demand for children to adopt and the dwindling number of children available for adoption create anxiety and frustration on the part of prospective parents and provide a medium where the less scrupulous may prey.

The problem is not confined to any particular state or geographical area. However, it is difficult to predict with any accuracy the scope of the problem or the number of couples who have been victimized by persons who have no intention of delivering any child for adoption. Part of the reason for this is that the law enforcement arm of the federal government has only recently become more actively and visibly involved in the area of children's safety and children's rights. Another, more

important reason may be that a number of the hoped-for adoptions take place within the so-called "black" or "gray" market. In such instances, when the promised child never materializes, the victimized couple may either be too embarrassed or too fearful of prosecution themselves to disclose these activities to law enforcement personnel.

Because the number of cases of abuse in this area has not been ascertained with any specificity, it is difficult to conclude that the area of adoption fraud is one whose scope demands the remedy of specific legislative action. Our initial suggestion is that further intelligence be developed concerning the scope of the problem from a law enforcement view before any particular legislation is passed.

B. The Effectiveness of Present Criminal Statutes.

Absent enactment of this new legislation, there are several sections of the existing federal criminal code which provide remedies to address the evils of fraudulent adoption practices. These statutes include the conspiracy (18 U.S.C. §371), mail fraud (18 U.S.C. §1341), wire fraud (18 U.S.C. §1343) and interstate transportation (18 U.S.C. §2314) statutes. These statutes punish the use of the mails or interstate wire facilities or certain interstate travel in connection with or in furtherance of a scheme or artifice to defraud. The conspiracy statute punishes the concerted activities by two or more persons to violate one of these other statutes.

Federal investigations in the area of potential fraudulent adoption practices involving several hundred couples are now pending in no less than 20 states. The investigative agencies involved are utilizing existing federal criminal statutes, especially mail and wire fraud statutes, without difficulty. However, we do realize that there may be several areas where the present criminal code provides loopholes in fraud cases in general and adoption fraud in particular.

The existing code provides no means of punishing the

individual who, without using the mails or wire communications, makes false and fraudulent representations in an effort to obtain money or other things of value from prospective adoptive parents. Second, if an adoption scheme involves an amount less than five thousand dollars, the travel of the victims of the scheme would not constitute a violation of §2314. Third, there is some question as to whether §2314, which has been construed to cover only travel by the victims of the scheme to defraud, would cover travel by the natural mother or the transportation of the child to be adopted in situations involving force or duress. Travel by such individuals might be excluded either because they might not be considered the true victims of the scheme or because of a failure to meet the predicate jurisdictional amount of $5,000. Finally, there are no statutes which allow the mere use of or affecting of any instrumentality of interstate or foreign commerce to provide the federal nexus for controlling behavior in the area of fraudulent adoption practices.

In sum, the existing federal criminal code would appear to cover many of the areas of potential abuse in the area of adoption fraud, and would provide no less effective enforcement than now exists for other sorts of fraud schemes involving non-governmental victims.

C. The Proposed Bill.

Although, as indicated previously, we do not believe a case has yet been made for the enactment of specific federal legislation dealing with child adoption fraud, in the event the Committee determines to process such legislation, we offer here some comments with regard to the difficulties which S.2299 presents from a law enforcement viewpoint.

1. Section 21 -- the False Pretenses Section

The primary problem with this section is that it fails (we assume inadvertently) to provide any federal nexus. We believe, from the February 9, 1984 remarks accompanying the introduction of the bill, that its focus is meant to be upon fraudulent

adoption practices relative to interstate or foreign adoptions. However, there is nothing in this proposed section which limits its effect to such activities nor which provides a rationale for the involvement of the federal government.

A second problem with this section is that the false acts or statements made punishable in the first clause of the first paragraph are not limited by any requisite of materiality as is done in the succeeding clause. Absent such limitation, the section would punish the knowing use of false, non-material information as severely as the concealment of a material fact. This would be a marked departure from the language in other false statement statutes, including 18 U.S.C. §1001, and would make an unappealing predication for successful prosecution.

2. Section 23 -- Transportation of Individuals under Duress

Since the thrust of this section is the causing of an individual to travel in interstate or foreign commerce in connection with the placement of a child for adoption, it is unclear why the proposed offense is limited to causing such travel by means of force or duress, or indeed why the section punishes only the causing of an individual, rather than property, to move in interstate or foreign commerce. We suggest that additional consideration be given to the desired scope of this section. Moreover, it would seem to us preferable to substitute the word "threat" for "duress". Duress is not a term commonly utilized to describe an offense. Instead, duress is a common law defense, and, as such, has been given a quite narrow interpretation, which may be insufficient to reach all the situations intended for coverage under this section. See, e.g., S.Rep.No. 97-307, pp. 109-111 (97th Cong., 1st Sess.) (1981).

3. Section 104 -- Civil Recovery

Section 104 of S.2299 creates two causes of action in federal court for individuals who have been subject to a fraudulent adoption practice. As I stated with respect to the criminal provisions of the bill, the issues as to whether the

federal court is the most appropriate forum, whether the proposal in section 104 affords the best remedy and whether there are currently realistic remedies available must be examined closely.

It should be noted that proposed §5116 of Title 42 requires, in order to obtain damages from a defendant, that a violation of the proposed criminal provisions have been committed. Section 104 leaves unclear what standard of evidence a civil plaintiff must show in order to demonstrate that a violation has been committed, and therefore to obtain damages. The extent of punitive damages, costs of suit and attorneys fees is also not defined in terms of when they are appropriate and the degree to which they should be awarded.

Additionally, both proposed sections 5116 and 5117 of Title 42 permit the court to impose such other penalties as provided by state or federal law. It is unclear what these "penalties" are. Furthermore, in the context of civil litigation between private parties, which section 104 seems to envision, damages, not "penalties" are awarded to the plaintiff. Penalties are more appropriate in the context of enforcement actions undertaken by the government, not by private litigants seeking personal redress.

Senator DOLE. Mr. Carmichael?

STATEMENT OF ANDREW J. CARMICHAEL, JR.

Mr. CARMICHAEL. Thank you, Mr. Chairman. I appreciate the opportunity to appear this morning on behalf of the Immigration Service and discuss S. 2299.

My prepared statement is submitted for the record, and I will confine my remarks to a summary of it.

Mr. Chairman, in fiscal year 1983, the Immigration and Naturalization Service completed over 8,000 orphan petitions, and I think we heard from Ms. Swift previously that the State Department then in turn issued about 7,000 plus visas.

Our trend in recent years, Mr. Chairman, has been toward the streamlining and the facilitation of the process for prospective parents, but I want to emphasize to you that in facilitating that process we have taken no steps to remove any of the restrictions on those steps which protect both the interest of the prospective parent, and of course, the child.

In August of 1979 we permitted, for the first time, advanced processing of a petition so that time would be saved, while other steps in the process were being taken.

In November of 1980 we permitted that advanced processing to go on even while the required home study was being conducted, and in February of 1983 we extended our flexibility by providing that consular officers abroad, in most cases where the prospective parents and the child were all before the consular officer, and there was not a convenient Immigration office nearby, the consular officer, by delegation could act in our behalf, in clearly approvable cases.

Again, though, I want to emphasize that the investigative steps are still taken on both ends of this process. Before INS certain record checks must be made, and of course, a home study is required to be conducted by the State, or by a State approved agency. Those give us indicators that the parents themselves are suitable, and that the home will be a good one for the child.

At the visa issuance end of the line there is investigation relating to the child, to be sure, first of all, that the child meets the definition of an orphan that is found in the law, and that there are no disabilities, or other features of the case that are unknow to the prospective parents, and we think all of these serve the parties well.

Mr. Chairman, INS is deeply concerned about information that relates to the smuggling and fraud and other illegal activities in the adoption program. As you know, I do not think I have to remind you that smuggling and fraud are serious threats in the entire area of Immigration.

I can tell you, Mr. Chairman, that INS currently has active investigations underway in several States, and with respect to fraudulent adoption practices, in several countries. As a matter of fact, within the past few days we have issued special instructions to our field with respect to steps to be taken in the case of adoptions in Mexico. And those steps will continue until such time as we have better knowledge of what is going on in that country.

One bright spot, of course, as was mentioned earlier today, in other testimony, is the legislation recently enacted in the State of Utah, which requires, first, that any agent placing a child be licensed by the State, and from the Immigration Service's point of view, the important requirement that evidence of the lawful admission of the child, in the case of alienage, be established.

I was impressed by one remark that the attorney general testified to a while ago, and that was when he referred to efforts of the arranger to advise prospective parents on how they might answer questions put to them by the Immigration Service.

Our officers, informally, for years, have tried to act as advisors to parents, particularly when it comes to dealing with reputable organizations, and those who have long and successful experience in the field, and to further that effort, INS plans, by the end of this fiscal year, to have a publication available to prospective parents, which will give them that advice formally, and expand upon it.

We believe, in INS, Mr. Chairman, that unscrupulous arrangers do terrible injustice to prospective parents. We have heard testimony today that children are not received, that sometimes children

may be unhealthy, and that comes as a surprise to parents, and that is terrible, terrible, indeed. And from our point of view, parents become unwitting parties to fraud or irregular actions, and this has an adverse impact sometimes in our investigations, when parents, understandably, are reluctant to cooperate because they fear that the shield may be taken from them.

We are in support of any efforts that will improve this, and eliminate fraudulent practices, Mr. Chairman. I will defer, as Ms. Swift did, to Mr. Keeney on comments regarding the bill.

Those conclude my comments, and I will be more than happy to answer any questions you may have.

Senator DOLE. All right.

[The following statement was received for the record:]

PREPARED STATEMENT OF ANDREW J. CARMICHAEL, JR.

Mr. Chairman, and members of the Subcommittee, I am pleased to have the opportunity to appear before you today. Mr. Keeney is here to testify on the provisions of S.2299, The Anti - Fraudulent Adoption Practices Act of 1984.

My purpose is to provide some background information on the processing of orphan petitions. As you may know, the Immigration and Naturalization Service completed approximately 8,054 orphan petitions during the last fiscal year. Completion statistics for the prior ten years are as follows:

FY 82 - 6,423
FY 81 - 5,644
FY 80 - 5,456
FY 79 - 5,005
FY 78 - 5,652
FY 77 - 6,854
FY 76 - 7,051
FY 75 - 6,290
FY 74 - 5,446
FY 73 - 4,323

There has been a general trend over the years towards streamlining the processing of orphan cases. The checks of the records of other agencies for information relating to orphan petitioners, which were once required by the Service, have been eliminated except for the fingerprint checks. Delays in processing petitions were greatly reduced some years ago by having the overseas investigation conducted at the time of visa issuance rather than while the petition was pending. The purpose of the overseas investigation is to verify that the child is an orphan as defined by the statute, and to determine whether the child may have a significant affliction or disability not set forth in the petition.

On August 23, 1979, a final rule was published in the Federal Register amending

the regulations to permit advance processing of an orphan petition in any case where an eligible petitioner requests it prior to actual location of a child for adoption. This eliminates unnecessary delays once a child is located.

On November 14, 1980, revised regulations, concerning petitions based on adoptive relationships, were published in the Federal Register. The amendments provide more flexibility in the filing and processing of orphan petitions and requests for advance processing of these petitions. For example, one of the revisions permits the filing of an orphan petition on behalf of a known child even though the home study required by the statute, or the documentary evidence relating to the child, is not yet available.

On February 1, 1983, final regulations were published which permitted American consular officers assigned to countries with no Service offices to approve clearly approvable orphan petitions when the petitioners and spouses have traveled abroad. This new procedure is a further step towards processing orphan cases expeditiously and improving service to the public. For example, a petitioner who has traveled to India may now file his or her orphan petition at the closest American consulate or embassy instead of at our Hong Kong Service office.

In spite of the trend to speed up the processing of bona fide orphan cases, the Service is concerned with the problem of infant smuggling and fraudulent adoption practices, and has initiated investigations into a number of these schemes in several states. As these inquiries are presently being actively pursued, we cannot disclose their particulars. We have, however, found that the potential for children to be stolen from foreign countries and smuggled into the United States is great, and that there is a lucrative market for fraudulent documents for children who are the subject of visa petitions at American consulates abroad or who have already been brought surreptiously into the United States.

Arrangers entice clients by boasting that theirs is a "faster, cheaper, easier"

way to acquire children. We find that the adoptive couples have frequently been exploited by paying exorbitant fees and never receiving the children or receiving unhealthy children, or that they have been made parties to fraudulent acts or smuggling. Nonetheless, we have encountered some difficulty in pursuing these investigations because the parents fear that cooperation with the Service will result in the children being taken from them or will prejudice their chances of future foreign adoptions.

On the positive side, state legislation was recently passed in Utah which makes it a crime for an agent to place foreign-adopted children unless the agent is licensed by the state, and also requires proof of lawful admission to the United States prior to a state adoption of a foreign-born child.

I find that the intent of the proposed legislation is consistent with the Congressional intent of the orphan petition legislation to prevent the improper transfer of children. Moreover, it would not have any adverse effect on the processing of bona fide orphan cases expeditiously in accordance with the humanitarian intent of this legislation. I would like to defer to Mr. Keeney, however, with respect to the actual bill itself.

Service offices have traditionally advised prospective adoptive parents on an informal basis to avoid fraudulent adoption practices which only lead to the heartbreaking situation where we must deny their petitions. In view of recent developments in this area, we are also planning to include advice of this nature in a publication on the immigration of adopted and prospective adoptive children which we are going to issue this year.

I would be happy to answer any questions you may have.

Senator DOLE. I think what we will do, if I could have Ms. Pittman join the group, and maybe summarize her statement within 5 minutes, and then we could have some questions for the panel.

I would like to place in the record an introduction, Ms. Pittman, prepared by Senator Denton. I will ask that be made a part of the record.

[The following statement was submitted for the record:]

PREPARED STATEMENT OF SENATOR JEREMIAH DENTON

I have the pleasure of introducing a great lady from Alabama, Miss Louise Pittman. Miss Pittman has had an illustrious career in the field of child welfare and if I were to completely chronicle her career, we'd be here all day. I will try to do her justice by highlighting her involvement in child welfare services in Alabama.

Miss Pittman is a native of Dadeville, Alabama. She received her Bachelor of Science degree from the University of Montevallo in Alabama, and her Masters of Social Work degree from the University of Chicago. She is a certified social worker with the Academy of Social Workers and is a member of the Alabama chapter of the National Association of Social Workers.

Miss Pittman has been a child welfare case worker and a consultant on child welfare. She served as the Supervisor of the Division of Adoption of the Alabama Department on Pensions and Security. Since 1964, she has been the Director of the Alabama Bureau of Family and Children Services. It is in the capacity of the director of this Bureau that she offers here expertise today.

In addition, Miss Pittman has served on the State Advisory Committee on Children and Youth, and chaired the Committee during the two White House conferences on the family in 1960 and again in 1970. She is a former member of the Executive Council of the Child Welfare League of America and Regional Council of the Child Welfare League of America. She has served on the Advisory Committee for Special Projects of the Urban Institute.

Recently, Miss Pittman received a special award for Outstanding Service to People by the Alabama Conference of Social Work. Also, she was made an honorary member of the Alabama Judicial College on March 1 of this year.

Mr. Chairman, I do not believe that there is any one in the State of Alabama who can speak with such authority on the issue before us today, the Anti-Fraudulent Adoption Act, S. 2299.

It is an honor and privilege to have Louise Pittman to testify before this Subcommittee.

STATEMENT OF LOUISE PITTMAN

Ms. PITTMAN. Thank you, Senator Dole.

I am honored to be here, with your office, and Senator Denton's office having requested that I come, and I am also honored to be included as one of the bureaucrats, State bureaucrats, with the Federal bureaucrats. We left out Health and Human Services, but I did call them and asked their thinking because I thought this was a good bill.

Also, the American Public Welfare Association has been looking at the bill in terms of the interstate compact. We rely on them to give us advice on interstate compact.

Our own compact in Alabama and our own laws are not in conflict with this bill and I would like to respond to the attorney general from Kansas about the interstate compact. I would like to say a few words about how it is operating and how it can be useful to States and to citizens. I will give some examples of how it has brought very unscrupulous practices to our attention in Alabama, but it does not go far enough.

I would not talk about making something a crime, without discussing this with our assistant attorney generals who represent welfare in Alabama. They have read this bill very carefully and

hope that it will be enacted. As a social worker, it just does not go far enough.

I would like to see consideration given to what happens when a parent, or persons who are not licensed, assist a parent get involved in placements. We are concerned, in Alabama, with the bar association and the medical association, in trying to assist licensed child placing agencies, and other professionals do a better job of interpreting laws we have.

Now, we are not foolish enough to think, as you heard this morning, that the supply is going to meet the demand. We know that there are fewer children available for adoption, for various reasons. It seems to me, as we interpret in the States the importance of agency placement and assess why there are so few children available for adoption, there would be some difference in the supply and demand.

We checked last year on all of the petitions to adopt filed in Alabama, and found that about 59 percent of the children in unrelated homes were placed by some licensed agency. The remaining 41 percent is a large group of children who are vulnerable. A private nonagency adoption is not evil or questionable, but many children in such placements are quite vulnerable.

I would like to speak for improvement in State laws being complimentary to this bill. I would like to speak on behalf of children. In Alabama we have had a placement program since 1919. We are seeing many adult adoptees; some were children placed without any concern for prior investigation of the home, or their rights and the rights of the biological parents. Such adoptions can end with very unhappy adults.

We believe that all children have a right to some kind of investigation of the adopting home. We believe that biological parents need some help in taking the step to place their child. At least they do not need to have duress placed on them.

We have, in the last few weeks, investigated a petition where the adoptive parents told of having gotten the child through another State. Through working with the two States we learned there was passage of money, and that the mother did not even know the child was in Alabama. The grandmother is said to have sold the child. We were trying, now through the court, to determine where the child's custody should be.

We had an adoptive father come to us very distraught, because he promised to keep paying to the mother, after the child was placed. These are some things that need to be tightened up in State laws. In Alabama, just last week, a legislator has introduced a bill to make it a crime to sell a child. We are concerned that the bill just makes it a crime for the parents to sell. We hope there will be amendments to make it a crime for any person to help parents sell a child.

Through the interstate compact, it is required, and most States are members, that before a child is brought across the State line for purpose of adoption, there must be consent by the State agency who has responsibility for adoption.

We have numbers of situations come to our attention by attorneys and prospective parents ask our help in bringing a child into Alabama to adopt. Recently we traced three telephone numbers

given by waiting parents of the agency proposing to place a child. The attorney and the prospective parents went to the State, although we all knew that there was a question whether such an agency existed. They learned there was no child, although they had been asked to pay $20,000 for the child. Another couple had been promised the same child.

We know children are not given adequate protection because of such unthoughtful and unscrupulous practices.

The commission of our department, with our attorneys, believe that the passage of Senate bill 2299 will send a message to those who would put monetary gains and selfish motives above the welfare of children. It seems to me ironical that the Congress has taken such a big step for the first time in many years, in the passage of Public Law 96-272, which mandates the States to protect children from growing up in foster care without judicial review, and then we have so little in our Federal appropriations, that will help States to do a better job in foster care and adoption.

Senator DOLE. I am going to have to ask you to summarize your statement, Ms. Pittman.

Ms. PITTMAN. All right. It is my belief that this bill will serve to codify in the criminal statute that which is already a crime against children in the States and in this country.

The Alabama Department of Pensions and Security supports this bill and commends its sponsors for taking another very important step complementary to the Adoption Opportunities Act in protecting children that are powerless to protect themselves.

Thank you.

[The following was submitted for the record:]

Prepared Statement of Louise Pittman

My name is Louise Pittman. I am Director of the Bureau of Family and Children's Services, Alabama State Department of Pensions and Security. The Department of Pensions and Security is the state public welfare agency. It administers public assistance programs, the social service block grant and Title IV-E and IV-B programs. All of these programs are state-supervised and locally administered through 67 county departments. The Alabama Department of Pensions and Security is a member of the American Public Welfare Association and a charter member of the Child Welfare League of America. We have recently joined with seven other states in the southeast in establishing and supporting the Southeastern Adoption Exchange to locate adoptive homes for special-needs children.

We are committed to the belief that children need a feeling of permanency, either in their foster homes, their natural parents' homes, or their adoptive parents' home. We have made gains in locating homes for large family groups, minority groups, and handicapped children. We have placed as many as five and ten siblings in one home. We continuously work with television stations in recruiting homes for special-needs children. We have recently been invited by the Department of Health and Human Services to develop our final application for a discretionary grant to join the Center for Developmental and Learning Disorders, University of Alabama, in a program to recruit adoptive parents for minority children and children with handicaps.

I would like to speak in support of S.2299. In supporting this legislation, I will describe briefly the family and children's services programs administered through the Department of Pensions and Security and the ways we believe this legislation will help children and citizens in Alabama and in all 50 states.

The Alabama Department, through the Bureau of Family and Children's Services, has responsibility for developing policies and programs related to foster care, child abuse and neglect, adoption, and preventive and supportive services such as homemaker services and day care. We also carry out the state's responsibility to prescribe standards and to license child care institutions, group homes, and day care centers not approved or licensed by the Depart-

ment of Mental Health or the Department of Youth Services. The Department of Pensions and Security is a member of the Interstate Compact on the Placement of Children.

The Department's responsibilities in relation to children are an outgrowth of those duties prescribed by law for the Alabama Child Welfare Department, established in 1919. Alabama had one of the earlier adoption laws in the country requiring an investigation of petitions to adopt. In addition to the Interstate Compact, Alabama's laws contain a provision requiring that children not be brought into the state for adoption without the consent and approval of the Department. There is also a provision in Alabama statutes prohibiting hospitals from placing children and requiring that reports be made to the Department of mothers likely to place their children. One section of the adoption statute prohibits unlicensed persons from taking part in the placement and/or holding out inducements to parents to part with their children or in any manner becoming a party to the separation of a child from his parents. Alabama's history of concern for assuring a proper placement of adoptive children is long. Our efforts have been many, but we are not always successful in preventing inappropriate adoptions.

During the fiscal year 1982-83, there were approximately 2,000 adoption petitions filed in Alabama Six hundred seventy-two of these concerned children in unrelated homes for whom the Department had responsibility to make reports to the court. Of this number, approximately 59 percent had been placed by our Department or a licensed child-placing agency. Of the remaining number, many had been arranged by someone other than the parent. There is growing concern on the part of our Department and licensed child-placing agencies about placements that give no consideration to the rights of the child, to a prior investigation of the home by a licensed agency, and that provide no counseling to biological parents. There is also the danger of undue coersion being placed on parents to give up their children for adoption and the possibility of black market. Recently a district attorney contacted the Department concerning an investigation he was pursuing pertaining to the sale of a child. Regrettably, such incidents are not uncommon. There is danger in such situations of the child's not having adequate protection from

neglect or being uprooted and custody becoming the subject of legal controversy.

It is not unusual in Alabama to learn, after a child has been placed in a home independently of an agency, that prospective adoptive couples have paid for hospital and doctor's costs. One mother was told that the person acting as the go-between would pay for the hospital bill and that the couple who adopted would continue to assist with money payments to her. The problems and grief such arrangements can cause for the future are illustrated by an adoptive father's statement to us that he had continued throughout the years to pay the mother of a child in order to prevent disturbance to the child and his wife.

In Alabama, hospitals are required to report to the Department if a mother is likely to need help in placement. Recently, because of such a report, we were able to intervene when an unlicensed representative from another state sought to make plans for a child's placement. The young parents later decided not to release their child.

The Interstate Compact is helpful in bringing to our attention people who wish to have approval for a child coming into their home. One such proposal came to our attention in which the prospective adoptive mother was having many problems with one of the children in the home and also had severe psychiatric problems. Fortunately, this placement was prevented by our refusal to consent to the child being brought into Alabama.

Another family came to the Department to request approval for a child to be brought into the State by an organization that had advertised infants were available in a particular state. Because of the questions raised in other states about the organization, information was given to the attorney for the prospective couple. The couple had agreed to pay the organization $20,000 for the infant. When the infant was born, the prospective father and his attorney went to the state where the organization operated and learned that another couple was being offered the same child.

More frequently, the Department learns of these placements after the child has gotten into a home, and a mother wishes to rescind her consent and recover her child. Recently, a couple seeking to

adopt gave information about the baby's mother being in another state. In the process of investigation, we learned the mother was hospitalized, and her mother had made the placement for a sum of money. The couple seeking to adopt left the state; and on investigations by law enforcement, drugs and stolen property were found in their home. Fortunately, through the two states' cooperation, courts are now in the process of determining custody of the child.

We are working with the Alabama Law Institute to reexamine child welfare laws to determine how they can be clarified and strengthened. We are pleased that a bill has been introduced in our current legislative session prohibiting the sale of a child. For some time, we have worked with the Alabama Bar Association and the Alabama Medical Association to educate their membership, secure their cooperation, and heighten public awareness of existing laws and procedures. In April 1982, the Alabama Bar Association published in the Alabama Lawyer an article written by our Department's Adoption Supervisor to encourage physicians, attorneys, and other professionals to utilize licensed child-placing agencies and not to participate in illegally-arranged plans for placement. I am attaching to this statement a copy of this article, entitled "Rachel Weeping for her Children."

We are likewise concerned that children placed without the benefit of an agency have little recourse in learning the circumstances surrounding their adoption. Increasingly, individuals who have been adopted are searching for more knowledge of their biological families. We in Alabama believe adult adoptees have a right to counseling in this area and to more information about their identities.

It is the belief of the Alabama Department of Pensions and Security that S.2299 would be a strong deterrent to unlicensed individuals and organizations in the arrangement of adoptions, particularly adoptions involving compensation and other highly questionable practices. We believe the bill would be strengthened if the provisions of Section 22 were made applicable to parents and individuals assisting parents place children for money.

We are pleased to see the amendment to Title 42, which will require studies and data-gathering related to adoption and foster care.

The Congress of the United States took a major step in the passage of P.L. 96-272. It is the Alabama Department's belief that the requirements for review of foster care cases and movement toward more permanent plans are having a positive impact on the lives of children. It is further our Department's position that the full appropriation for Title IV-B funds be authorized under this Act to assist the 50 states in providing staff and services to enable children to move into appropriate adoptive homes.

Professionals in this country have gained more expertise in protection of children. Unless sufficient funding is available for staff and unless caseloads are reduced, workers will not be able to use that expertise in making critical decisions, which make a difference in the next generation of adopted adults.

Passage of S.2299 will send a message to those who would put monetary gains or selfish motives above the welfare and best interest of children. It is my belief, and the belief of the Alabama Department of Pensions and Security that passage of S.2299 will be a strong deterrent to unlicensed individuals or unlicensed organizations soliciting or receiving compensation for arranging adoptions. It is my belief that this bill will be a strong deterrent to individuals and organizations who use questionable practices, including duress in causing people to place their children for adoption. The demand for children is great--the potential for profit is great. It is my belief that passage of this bill will serve to codify in this nation's criminal statutes that which is already a crime against the children of this country.

The Alabama Department of Pensions and Security supports S.2299 and commends the sponsors for taking another important step in protecting children who are powerless to protect themselves.

MEMORANDUM

July 8, 1982

TO: COUNTY DIRECTORS OF PENSIONS AND SECURITY

FROM: Louise Pittman, Director
Bureau of Family and Children's Services

SUBJECT: Adoption Article, April 1982 Issue Alabama Lawyer

I am attaching a copy of the article written by Emogene Austin, which has been published in the Alabama Lawyer. I believe Service staff will be particularly interested in reviewing this article. We are pleased that the Alabama Lawyer published this.

LP:fk

Attachment

DISTRIBUTION: Family & Children's Services - State
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Rachel Weeping for Her Children

By

EMOGENE AUSTIN

In the Bible there are several references to Rachel's weeping for her children. She would not be comforted because they "were not." In Alabama there are Rachels weeping for their children because they "were not."

In August, 1981, the Supreme Court of Alabama ordered an Alabama couple to return their adopted child to its natural mother.[1] The child had been in the adoptive parents' home for nearly three years. The basis of the Court's decision was that the adopting parents had not followed the state law in adopting the child. The opinion stated that noncompliance with Section 38-7-15, *Code of Alabama, 1975*, invalidated the adoption pro-

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"A voice was heard in Ramah,
wailing and loud lamentation,
Rachel weeping for her children;
she refused to be consoled,
because they were no more."

Matthew 2:18 (RSV)

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ceedings. The section of the Code in part reads as follows: "No person or agency shall bring or send any child into the state of Alabama for the purpose of placing him or procuring his adoption or placing him in any child-care facility, as defined herein, without first obtaining the consent of the department. . ." A physician assisted the family in obtaining the baby.

In another recent situation, an Alabama attorney arranged for a mother to come to Alabama from another state to have her baby. The attorney placed the child with the adoptive couple, who agreed to pay air fare, maternity costs and other expenses of the mother. In less than three months, the natural mother had filed through her attorney a petition to set aside her consent to adopt because erroneous information was included and request was made for return of child to mother.

A social worker "weeps" with an adoptive father as he relates his experience of securing a child independently and the natural mother's finding the child and the adoptive father's paying sums of money through the years to keep the child and the adoptive mother from being disturbed.

Then there is the adult adoptee who returns to the agency seeking information about her identity. Her parents told her she was placed by a

1. Ex Parte *Sullivan* (Re: Sullivan v. Mooney), (MS, Aug. 21, 1981). So. 2d (Ala. 1981). For summary of case, see 42 Alabama Lawyer 555 (1981).

doctor whom she located and who refused to give her information which she needs for medical reasons and which the agency does not have since she was never in the custody of a child-placing agency.

"Rachels are weeping because their children are not," and physicians, attorneys and social workers need to examine the elements of legal and psychological risks in adoptions consummated without the benefit of social services. Many pregnant girls turn to their family physicians or attorneys instead of agencies; perhaps they do not know that agencies exist that would help them. Many of the pregnant girls deciding to place their children need counseling, but they feel under pressure from parents or intermediaries to relinquish their child and are left with unresolved guilt feelings and conflicts. In their anxiety to receive a child into their home, adoptive parents are susceptible to the risks of harassment when the natural parents know the child's whereabouts. Adoptive parents are sometimes paying large sums of money and then may have to face the fact that the child may be born with a handicap or the mother may change her mind about placing the child. In privately arranged placements there is no judicial proceeding terminating parental rights and, thus, no guarantees of the adoptive parents' rights to security in their relationship to their child.

The Alabama State Bar recognizes the value of sound adoption placement practice and some years ago adopted the following resolutions:

"WHEREAS, the adoption of children into unrelated homes is of continuing and increasing interest to prospective foster parents, to the public generally, and to the bar of Alabama; and

WHEREAS, Alabama statutes since 1931 have established legal procedures for adoption so as to safeguard the children as well as the natural and foster parents; and

WHEREAS, when children are placed for adoption by unauthorized individuals or when blank consent forms are signed by natural parents or responsible relatives, difficult problems are created by these departures from legal procedure and the statutory safeguards are undermined; therefore be it

RESOLVED, that the Alabama State Bar Association recommends (1) that all county bar associations carefully scrutinize, in relation to Title 49, Sections 62, 67, and 78, and Title 27, Sections 3 and 7, Code of Alabama 1940, the practice of signing blank consent forms and the placement or referral of children for adoption by unauthorized individuals or agencies; and (2) that individual attorneys use their influence to acquaint the public in addition to their clients to whom they provide professional service with the legal procedures of adoption designed to protect children, natural parents and foster parents; and be it further

RESOLVED: that a copy of this resolution be mailed to the presidents of all county bar associations, to the probate judges in the sixty-seven

counties, and to the Commissioner of the State Department of Public Welfare."

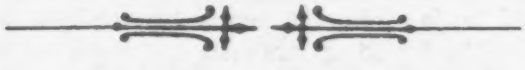
The Alabama State Bar also prepared and issued as a public service a brochure entitled "How to Adopt a Child in Alabama," which has been widely distributed to individuals interested in adopting a child, attorneys and judges.[2]

Attorneys have an important role in the adoption process since adoption of a child is a legal procedure, through court action, by which a child becomes the child of a new parent or parents other than his biological parents. The attorney is the professional person who is equipped to perform a service in adoption placement for which neither the social worker nor the physician is equipped.

Attorneys can be helpful to parents who wish to place their children for adoption by referring the parent to a licensed child placing agency for services. When an attorney becomes a party to the separation of a child from his parents and participates in the placement of the child in an adoptive home without the benefit of a social agency and social planning, he is not acting in his best legal capacity. Non-licensed persons or groups are barred by the statute from acting as intermediaries in finding children for adoption or making placements. The particular section of the *Code of Alabama, 1975*, which relates to this practice is Section 26-10-8. Other citations (amended from those listed in the resolution) which the attorney will want to scrutinize are:

Sections 38-7-1 through 38-7-17
Sections 44-2-20 through 44-2-26

Adoption is an experience involving the emotions of many people. The goal of all of us should be the protection of the child first, but also of the biological parents and the adoptive parents. The cooperation of social workers, physicians, attorneys and several other professions is needed, as no one person or profession can take the responsibility alone to prevent "Rachel Weeping for Her Children."



2. See 17 Alabama Lawyer 406 (1956).

Senator DOLE. Thank you very much, Ms. Pittman.

I think, so everybody understands what we are trying to do in this legislation, it does provide Federal criminal sanctions for anyone committing adoption fraud, it has a maximum sentence of 5 years or $10,000, or both. It does open the Federal courts to civil suits by anyone defrauded in an adoption scam. It allows for recovery of lost funds, plus punitive damage and costs of the suit. It does provide Federal criminal sanctions for anyone arranging adoption for profit, outside of ethical adoption systems. It has a maximum sentence of 5 years or $10,000, or both. It improves the Department of Health and Human Services' ability to act as a clearinghouse for information concerning adoption problems, and I would indicate that it has been sponsored by nine Senators—Grassley, Denton, Jepsen, Hatch, Bentsen, Garn, Domenici, Kasten, and Huddleston—and it has been introduced by Congressmen Jack Brooks and Pat Roberts on the House side.

Again, maybe in the scheme of things in the country and the world there are a lot of other probably more important matters, but I think this does deserve our attention, so we appreciate very much the panel's willingness to be here.

I just have a few questions. I may want to submit additional questions, particularly to Justice, in writing. I would first like to ask Ms. Swift a question.

In your statement, you comment on the increasing popularity of Latin America as a source for children. I would be interested to know if problems with international adoptions are increasing generally, or are they limited to the Americas?

Where do you have the most problems?

Ms. SWIFT. Well, we are having the most problems in Latin America. Our largest area for adoption is East Asia, but it is my understanding that most adoptions in East Asia are carried out through adoption agencies, and in very legitimate ways, so we have not had that many complaints.

We have had a few cases of fraud in East Asia, but not very many. It is mainly coming out of Latin America.

Senator DOLE. If someone were to obtain release papers for a Mexican child, through deception or coercion, and then present these papers, which appear legitimate, for a visa to a U.S. Embassy in order to place the child for adoption in the United States, would the Embassy grant the visa without investigating the validity of the papers?

Ms. SWIFT. Hopefully, we would pick up the fact that they were fraudulent. Especially under our new regulations, INS would do a very thorough prior investigation. If that did not turn up anything, and if they come in with what looks to us to be totally valid documents, we would, unfortunately, probably issue the visas. Hopefully, we would pick the fraud up, though.

Senator DOLE. All right. But if you did pick up on it, would there be a violation of any U.S. laws?

Ms. SWIFT. Not that I know of, but we would not issue the visa.

Senator DOLE. Right.

Mr. Keeney, I guess the thing that concerns me is that Chief Grubb testified to earlier, that he did not have much cooperation

from the Federal authorities. Maybe that is understandable, if this is not a priority matter, as apparently it is not.

But according to newspaper reports, the FBI began investigating back in 1982. After a year, the paper reports, the investigation was closed because it did not produce any results.

I guess what we need to find out is——

Mr. KEENEY. Let me comment on that, Senator. First of all, it is now a priority, a high priority of the Federal Bureau of Investigation, in the Department.

With respect to the investigation which began in early 1982, and was closed in November of 1982, the allegations came from 11 would-be adoptive parents, and prosecution was declined, and the reason was, the factual situation is, of the 11, three got babies, four got refunds, sufficient to satisfy them—I am sorry, seven got refunds sufficient to satisfy them, and one of the persons was willing to wait it out.

So the assistant U.S. attorney who declined, concluded that on those facts, there was insufficient evidence to prove criminal intent to defraud.

Now, with respect to the current situation, we are going full bore at the moment, and as I indicated earlier, we have leads out, the FBI has leads out in 36 States, to more than 200 people, most of whom are persons who have been trying to adopt babies.

Now, in addition to that, Senator, we got into this full bore, as I described it, when in December of last year—and I might back up and say that this is a relatively developing phenomenon, and it is the situation that has been described to you today, many of the names are familiar, we are really talking about the same group, essentially the same group of people.

Senator DOLE. Are there more than one group? Do you have any——

Mr. KEENEY. The information we have now is that it is essentially one group that has used a variety of names in its dealings, but it is essentially one core group. And it is the only core group that we have substantial information on, right now, that is engaged in this sort of thing.

Senator DOLE. That would be true in any country, not just Mexico, but any other area?

Mr. KEENEY. The information that we have right now is largely confined to Mexico. And to go on with the history of how the Justice Department interest resulted in acceleration, in December of last year, 4 months ago, a Mexican illegal alien came to the FBI and said that her four children had been kidnaped. The children had been inveigled away from the mother, with the representation that they were going to be boarded, and available to her in the future.

The FBI started out as a kidnaping investigation. From that we made substantial progress, and I might say, in a very short period of time. Late in January, we executed a search warrant, and with the search warrant we got records with respect to people involved, a number of the victims, and in addition to that we are now going on to interview the people who turned up in the records, the additional people who turned up in the interviews, and we are issuing subpoenas, to try and get additional records.

So I hope I have conveyed to you, Senator, that we are now treating this as a very serious problem. It is a grave problem. It is a dastardly situation, and we are moving as rapidly as we can to try to do something about it.

I think I have indicated, in the statement, as the people here today have demonstrated, they are using interstate facilities, they are using interstate wires, interstate phones, and they are using mail in some situations, and in some situations they are coming up over the jurisdictional $5,000 amount, and I would imagine that as the investigations proceed, we will be able to demonstrate that, from the facts, the Immigration Service was defrauded in attempting to carry out its governmental responsibilities, and that false statements were submitted in connection with the visa requests.

Senator DOLE. Obviously the last thing we need to do is to pass additional laws if they are not needed, but as I understand it no one yet has been indicted. It may be that you probably have not reached a point yet in the investigation where anyone has been charged or prosecuted.

Mr. KEENEY. It may be, Senator, when we complete the investigation, that the facts will unfold, and we will see gaps in the law, that we think should be addressed.

The only gap that I see in the law right now is the one that applies to any fraud scheme. In other words, you have got to meet certain jurisdictional elements, mail, interstate wires, travel interstate with an amount in excess of $5,000 being involved. Here we have the additional factor of possible fraud on the Immigration Service, which gives us a basis for conspiracy, or gives us a basis for a false statement charge.

Senator DOLE. You do not think there is any design to keep that fee below $5,000?

Mr. KEENEY. Well, we were listening as the testimony was given. I think one of the victims mentioned $4,875. It kind of looked as though——

Senator DOLE. $4,999.

Mr. KEENEY [continuing]. They were trying to keep under $5,000.

Senator DOLE. That may be an area, again, where legislation is needed. If they are going to stay below $5,000, you can have a problem.

Well, I think the important thing is that it is being treated as a matter of priority. I am certain that everyone appreciates that.

I would suggest that perhaps before we rush to pass additional legislation, that we might have an appropriate waiting time to see what develops. It may be that Justice will determine, or the FBI, through their investigation, that there is a loophole.

We did a lot of loophole work in the Finance Committee, and there may be some loopholes in the criminal statutes. So we would like to make certain that, either by this legislation, or some other that if what you have does not work, then we want to do something to close the loophole.

I guess the thing that strikes me, off the top of my head, maybe it is that $5,000 problem. If they keep their fees below that amount, what can you do?

Mr. KEENEY. Well, we have to come in through one of the other avenues. Preliminary indications are that they are using the other jurisdictional elements, jurisdictional bases, wire and mail.

Senator, we are at your service, when we complete the investigation, we will give you the benefit of whatever views we have with respect to deficiencies in the law.

Senator DOLE. Do you have any idea when that may be?

Mr. KEENEY. I do not know. They are going awfully fast, Senator. I am hopeful that we are going to do it quickly, but you know, quickly in the criminal process is not 3 weeks. It usually takes months to get things wound up, get them into a grand jury, and proceed in the criminal process.

Senator DOLE. I might just ask Mr. Carmichael a couple of questions.

The Fort Worth Star-Telegram quotes Gary Moore of the El Paso INS Office as stating the following:

> Baby selling is a common thing down here. There is so much of it, and we are so bogged down with other administrative types of cases that this really is not foremost in our mind right now. If we catch it we will do something about it. We really do not have the time to go out and look for this stuff.

Is this the official INS position on international baby selling?

Mr. CARMICHAEL. Mr. Chairman, it most certainly is not. I became aware of this newspaper article this morning for the first time, and I have directed that a copy of it be furnished to me, and that the officer named in the article be asked to explain what his remarks were intended to portray, and I will be more than happy, Mr. Chairman, to provide you a copy of our report on that, as soon as we receive it.

Senator DOLE. Right. It could be a misquote.

Mr. CARMICHAEL. It could be, and I would hate to prejudge it for that reason. But taken on its face, it would not represent the position of INS on a matter as tragic and as sensitive as this one is.

[The following response from INS was subsequently recieved for the record:]

> In the Fort Worth Star Telegram series on fraudulent adoption practices, INS officer Gary Moore of El Paso was quoted as saying: "Baby-selling happens all the time. We have too many administrative cases to do much about it. If we catch it, we'll do something about it." Would you comment on this.
>
> Gary Moore, an INS investigator in El Paso, was overheard speaking on the phone to a reporter from the Fort Worth Star-Telegram three or four months ago. He was admonished at that time. The statement in the December 26, 1983 article does not represent the Service position on fraudulent adoption practices which is described in the testimony of March 16, 1984.
>
> The Service initiates investigations only where there is a clear violation of immigration law. We have no authority to investigate situations involving only violations of foreign or domestic adoption law. The El Paso office cooperates, however, when assistance is requested by other federal or state agencies or the Mexican government in connection with violations of law other than immigration law.

Senator DOLE. I know INS has a lot of other things to do. I assume this matter probably can be worked out.

In your statement you explain how the process for handling what you term orphan cases has been expedited over the last several years.

I certainly support all the efforts to do away with needless regulation. However, is streamlining appropriate, given your concern

with adoption fraud and child smuggling? You do not lose anything in this expedited process, do you?

Mr. CARMICHAEL. No, sir, we do not believe we do. We try to strike a balance between retaining the protections, and at the same time facilitating what is really a humanitarian situation.

Senator DOLE. What has been the growth—I think you mentoned what, 8,000 applications.

Mr. CARMICHAEL. Again, we had 8,000 completions of these petitions in fiscal 1983.

Senator DOLE. Fiscal 1983?

Mr. CARMICHAEL. Fiscal 1983.

Now, in the decade prior to that, the annual completions ranged between 5,000 and 7,000. It has been fairly steady, but there was a slight increase in fiscal 1983.

Senator DOLE. And that, as I understand, may continue?

Mr. CARMICHAEL. I have no reason to believe that it will not continue, Senator.

Senator DOLE. I just suggest to the panel that I think all of you have indicated, this is a growing and developing problem. Maybe our efforts will stunt the growth.

I think once the Justice Department and the Federal agencies become involved, it may discourage a number of these people. It is encouraging, as I think you indicated, Mr. Keeney, that as far as you know any widespread fraud has been limited to this one core group.

Mr. KEENEY. Insofar as widespread activity, I am sure, Senator, that there are isolated individual cases, by individuals, but this is the only core group that we are aware of, or have information with respect to, now.

But going to the type of investigation we have, since it is so widespread, if there is anything else out there in the way of another group involved in it, we should get leads on it.

Senator DOLE. You have heard the same names have been mentioned this morning, Tanner, Kelley——

Mr. KEENEY. We are talking about the same.

Senator DOLE. The same folks?

Ms. Pittman, are they active in Alabama? Do you have any of these cases down there?

Ms. PITTMAN. It is hard to know. I think this is one of the things that we could see that was so positive in this bill, Senator, that it goes a little beyond what we have now. It discourages the participation, in people holding out these inducements, and it gives us a recourse, straight recourse, as agencies, that it is pretty difficult to meet right now, under the existing laws.

We, too, do not want any more regulation, but we would like to see the Department of Health and Human Services require that we report more on adoptions. I think this would give us a better picture.

Senator DOLE. You say require?

Ms. PITTMAN. If you have this in the bill, that amends 42, and they help an awful lot, but we do not want any new mandates, but I think child welfare adoption is very important, and mandatory reporting of what we are learning in adoption, just data, is very im-

portant, to give the Congress a little better idea of where we stand on this type of thing.

Senator DOLE. Well, I know we will have additional questions for the panel in the weeks, and hopefully, not too many months ahead. We would appreciate any information that any of the three agencies have, or receive, and if that could be supplied to our committee. We are particularly interested in the investigation, if you have any information on that, it would be helpful.

But I think that progress is being made, if we can prevent this type of activity without additional legislation; obviously, that would be desirable. If we find that for whatever reason we may need to make changes in the legislation introduced—obviously, legislation is changed frequently before it passes—then we will be sure to make such changes.

Again, we appreciate very much your coming. If there are others in the audience who would like to file statements for the record, we will be happy to receive those statements. I assume we may have a followup hearing, but we have not yet determined when that will be.

Thank you very much.

We stand in recess.

[Whereupon, at 11:57 a.m., the subcommittee adjourned, subject to the call of the Chair.]

36-395 O—84——6

APPENDIX

ADDITIONAL SUBMISSIONS FOR THE RECORD

STATE OF KANSAS

JOHN CARLIN, Governor

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ROBERT C. HARDER, Secretary

January 24, 1984

Mr. Jake Terpstra
Administration for Children,
Youth and Families
Children's Bureau
P. O. Box 1102
Washington, D. C. 20013

Dear Jake:

We in Kansas are glad to have this opportunity to discuss the matter of intra-state and inter-country adoptions. It has been a matter of some concern to Barbara Stodgell, our Adoptions Specialist, and Peggy Baker, our Interstate Compact on Children Deputy Administrator, and myself due to the increasing numbers of children placed in Kansas from out-of-state sources. It seems to us the legal status of some of these children is in question, but there are, at times, no available means to ascertain this.

Let me give you our collective thinking on some possibilities for alleviating this situation. While many of these recommendations would have to be implemented by states, the Model Adoptions Act, if adopted, would provide nationwide standards. First, we all agree that on the state level pre-adoptive assessments of adoptive homes should be required by the courts. We realize there will be resistance by attorneys, physicians, and perhaps others who have an interest in the Kansas law remaining as it is; however, this would provide courts with a means of acquiring needed information about a family prior to placement as well as an opportunity for pre-placement preparation of the adoptive family. There is a venue bill in the Kansas legislature which provides: "Proceedings by a person seeking to adopt a child shall be had in the county of residence of that person." This provision would prevent families from circumventing the laws of their own state and provide protection to both the child and the family.

There are rumors of stolen children being sold for adoption. In those circumstances when a petition is filed, if the child's legal identity cannot be reliably established through usual means, perhaps the FBI or Child Find could assist by investigating the child's origin from another state.

The federal agency should consider development of pamphlets on the following subjects:

1. What are your rights as adoptive parents?
2. What questions should I ask when considering the adoption of a (foreign) child?

3. What legal safeguards should be available (assured) to my adoptive child? (Include intra-state and inter-country adoptions.)
4. What services should an agency provide to me as an adoptive parent?
5. How can I choose a reliable placement agency?

These could be made available to the states for distribution as well as through the usual federal channels.

We have not mentioned fees; however, this is a crucial area for regulation. We realize there are great difficulties in this, and it seems to us there is a conflict between traditional agency ethics and the business ethics and practices now being adopted by some for-profit agencies and in private practice. One suggestion is that states determine a reasonable fee for their geographic area and report this to HHS. Also, require that only application and study fees be paid (wholly or partly refundable) prior to placement of a child. Subsequent administrative fees should be refundable and should be paid only upon the placement of a child. Such administrative fees should be justified by actual agency costs documented through a proper audit. States might consider requiring affidavits be filed with the adoption relinquishment documents listing expenses and fees. As a society, we need to open discussion and make a determination as to what constitutes payment for "adoption services" fees and what constitutes "child selling".

Traditional agencies do not pay the relinquishing parents' medical bills or expenses as they are concerned this will be considered an inducement to relinquish, which is illegal. Many attorneys or physicians in Kansas report that when they make placement directly with a family, the family will pay for the medical expenses and the girl's living expenses throughout her pregnancy. Such expenses can begin at $10,000 and go up. These expenses are not paid if the girl does not relinquish. Kansas courts have not considered these payments of expenses as "child buying" because the mother has not made a profit.

We are aware of adoptions that have been arranged based only on the family's ability to pay medical and legal fees. As the placement was originally arranged through correspondence, using the physician's business office, the adoptive family may never be seen by the physician or attorney.

A more extreme position on fees is to prohibit all fees except those for application and family studies. The problem with this is that many agencies have become quite dependent upon fees for operating revenue. This would, however, prevent "enticement" of relinquishing parents through offers of payment of housing, medical costs, food, travel, etc. Payment received by relinquishing parents, agencies, individuals, and groups should be subject to taxation and regulated by IRS. Profits of agencies should also be considered taxable income.

In reference to the problem of international adoptions, the State Department and the Immigration and Naturalization Service might be able to assist. The State Department, through the Diplomatic Corps, could explore the possibility of developing international agencies to legally move children from other countries into the U.S. for adoption. The Immigration and Naturalization Service might be able to "beef up" requirements for admitting foreign children for purposes of adoptive placement by establishing requirements that legal orders from a foreign court be given, documenting that a child was not relinquished under duress, or sold, and that the rights of both the child and the biological parents have been established and safeguarded.

Prior approval of the state government in the country of origin would be desirable. Also, a requirement that consents and relinquishments be signed before a judge of the court of record would assist in giving assurance that the persons signing the relinquishment or consent are the parents and that they have been advised of the finality of their act. Resurrection of the original Model Adoptions Act would assist this.

Perhaps the Vatican, with whom we have established diplomatic ties, could assist in developing acceptable safeguards for adoption procedures with Latin American countries by establishing adoption agencies in such countries.

We think HHS should consider a system of licensing or registration of agencies engaged in the importation of children from foreign sources for purposes of adoption. This would require federal legislation, we assume. Credibility of such groups/individuals is often impossible to establish (note the case of Becci Kelly and Debbie Tanner et al), and as state resource persons, we are handicapped in advising our agencies if they should avoid dealing with such groups.

The Holt Adoption Program might be considered a proto-type of a credible international adoption agency. Holt has developed an exemplary adoption program with the Korean government. Such a program with Central and South American countries would be most helpful to state agency adoption people. It is worthwhile to note that Korea, which did not have an adoption tradition in its culture, now places children with Korean couples as well as in the United States. Also, the placement of all children migrating to another country for the purpose of adoption must be approved by the Korean government.

Enclosed are recent newspaper articles that have appeared in the local press and a description of the Holt Adoption Program provided by Margaret McCorkendale of Family and Children's Services of Kansas City. I have also enclosed a copy of our child placing agency regulations for your review.

Please keep in mind that staff reductions in social service agencies necessitated by recent federal and state budget cuts have resulted in the loss of adoptive home studies and similar programs. Because these are not as "essential" as other programs, they are often the first to go. This is the reason Kansas SRS no longer provides non-agency adoption services, or services to families wishing to consider foreign or intra-state adoptions.

In conclusion, we sincerely hope the federal government will become active in assisting the states in the area of adoptions for the protection of vulnerable children and adoptive families. We applaud Senator Dole's interest and hope to be helpful in this national effort.

Please keep us advised of progress in this area and feel free to ask if we can be of any help to you.

Sincerely,

Russell L. Northup

Russell L. Northup
Resource Development Specialist

RLN:nm

Enclosures

cc: Robert C. Barnum, Commissioner
Richard Bleam
Shirley Norris
Peggy Baker
Barbara Stodgell
Jan Waide
Ben Coates

P.S. For your information we are adding the name and address of the HOLT ADOPTION PROGRAM, INC., P.O. Box 2420, Eugene, Oregon 97402.

United States Department of State

Washington, D.C. 20520

March 5, 1984

Dear Senator Dole:

Thank you for your letter of January 25 regarding the obstacles that confront American citizens engaged in international adoptions.

Your inquiry addresses the general problems of Americans seeking to adopt children from foreign countries and requests a report on the current situation with regard to international adoptions. The Department of State's statistics (attached) reflect that during fiscal year 1983 more U.S. visas were processed for children adopted from Asia than any other part of the world. The Department, however, receives few complaints about the Asian adoptions which are handled mainly through established, legitimate channels. The number of visas issued for children adopted from Europe, Oceania and Africa were too few to reflect any patterns, but adoptions in the Americas have, in recent years, posed significant problems.

In accordance with your request, I have enclosed a study prepared by the Office of Citizens Consular Services which details the major difficulties of inter-American adoption. The study outlines the "gray market" which victimizes adopting parents and prospective adoptees, and makes specific recommendations for changing the manner in which inter-country adoptions are arranged in the United States. While the study specifically addresses inter-American problems, its general observations and recommendations can be applied world-wide.

The Department of State has recognized the fact that inter-American adoptions have caused Americans great expense of time, effort, heartache and money. With a view toward resolving the problems and cooperating with the community of the Americas, the Secretary of State's Advisory Committee on Private International Law convened the Study Group on the International Adoption of Minors. The attached Inter-American Adoption Problem report reflects the work of the Study Group.

In addition to the Inter-American Problem study, I have enclosed a Latin America country by country analysis, a statistical breakdown of U.S. visas issued in fiscal year 1983, an example of an information flyer prepared for the press and the public which explains the nature and extent of the adoption problem, and a copy of a general Department of State flyer on international adoption. I am also enclosing a variety of reports by other organizations which may be helpful.

You also asked about a specific problem regarding adoptions in Mexico, in particular the activities of an adoption broker who was defrauding American citizens. The American Embassy in Mexico has reported that a private American intermediary in several potential adoption cases in Mexico has been indicted by a grand jury in the state of Iowa and by the U.S. District Court in Iowa and that an injunction has been issued whereby the defendant may not represent Iowans in adoption cases. We further understand that approximately four years ago the

individual was prohibited by the state of Colorado from conducting adoption business. We have been informed that at present all adoptions originating in the area in Mexico in which the intermediary was operating are under investigation by the United States Immigration and Naturalization Service (INS). Mr. Jose F. Salazar is the coordinator of the INS operation at the American Consulate General in Monterrey. You may wish to communicate with him directly for additional information in care of the American Consulate General, at Avenida Constitucion 411 Poniente, 64000, Monterrey, Nuevo Leon, Mexico.

I trust that this information will be of assistance to you. Should you have any further questions, please do not hesitate to telephone Ms. Monica A. Gaw in our Office of Citizens Consular Services at 632-3712.

Sincerely,

W. Tapley Bennett, Jr.
Assistant Secretary
Legislative and Intergovernmental Affairs

Enclosures:

As stated

United States Department of State

Washington, D.C. 20520

BEWARE OF SHORTCUTS IN FOREIGN ADOPTIONS
by:Monica A. Gaw
Citizens Consular Services

American citizens who desire to adopt foreign children should be aware of the numerous problems and pitfalls which will beset them in the natural course of the tedious process of foreign adoptions. The child is a national of a foreign country, even after the adoption is concluded. Consequently, adopting parents should be certain that the procedures they follow in arranging for such an adoption comply with the laws of the foreign country. This is usually accomplished by dealing with a reputable international adoption agency. While consultation with a foreign attorney is sometimes useful, the adopting parents should be wary of anyone who claims to be able to streamline established procedures. Procedural irregularities which sometimes result from an intermediary's desire to speed up the process can result in the foreign government's determination that the adoption is illegal and the refusal of that government to permit the adopting parent to keep the child.

The practice of arranging for adoptions through informal intermediaries has come to be known as the gray market. While such channels do not necessarily involve the buying and selling of babies or kidnapping, instances of such practices have caused many foreign authorities to institute a policy of investi-

gating adoption of their nationals by foreigners. Recent developments in Colombia and Brazil illustrate the consequences of adoption through intermediaries. As a result of an investigation which revealed a multi-million dollar baby selling market in Colombia, authorities in that country cracked down on all adoptions, rendering it virtually impossible for a foreigner to adopt a Colombian child. Similarly, the Brazilian government has instituted a procedure whereby all passport applications for Brazilian children adopted by foreigners will be forwarded to the Federal Police in Brasilia for approval. Before a passport can be issued, such cases must be referred to the cities where the adoptions took place for a local investigation into the legality of the adoptions. Such investigations can take months to conclude, while cases of procedural irregularity can take a year or more to resolve in the Brazilian courts. The sensitivity of foreign authorities to gray market adoptions demonstrates the importance of enlisting the services of a competent international adoption agency.

One agency which provides assistance to Americans who wish to adopt foreign children is the International Social Service, American Branch, 291 Broadway, New York, New York. The ISS is a non profit, non sectarian, apolitical organization which is a member of a network of social service agencies around the world that provide assistance to individuals and families whose problems cross international boundaries. Matched adoptions in Hong Kong can be arranged by the ISS American Branch provided the adopting parents are of Chinese descent and in Tokyo if one parent is of Japanese descent. The ISS American Branch can also arrange for matched adoptions in Hong Kong by parents who are not of Chinese descent in some instances where the child is over the age of seven or suffers from minor correctable medical problems. In other cases, if an American adopting parent knows of a child who will be available for adoption, the ISS American Branch can be of assistance in making arrangements for the immigration of the child into the United States. When the child is being adopted through a foreign adoption agency, the ISS, as a U.S. licensed agency, can approve the home study prescribed by the Immigration and Naturalization Service. In addition, the ISS is in the process of completing a research project focusing on adoption problems in Latin America in general and in Colombia in particular.

The Department of State and its embassies and consulates abroad do not become directly involved in the adoption process, except as it relates to the issuance of visas. Generally, a couple adopting a foreign child must obtain a release for the child in accordance with the law of the place where the child resides. This may involve a full-scale adoption or it may be as simple as obtaining a signed consent from the parents. Once the foreign procedures are completed, the adopting parents should petition the Immigration and Naturalization Service for a visa for the child. Information about petitions for visas may be obtained by contacting the local office of the Immigration and Naturalization Service or the Visa Office of the Departmet of State. If no formal adoption was concluded in the foreign country, it will be necessary to adopt the child under the laws of the state in which the adopting parents reside. Even if the child was adopted abroad, it may be desirable to re-adopt the child in the United States in order to avoid future difficulties. Information regarding the laws of a particular state regarding adoption can be obtained from the attorney general of that state. The Revised Uniform Adoption Act of 1972 is currently in effect only in Montana and Oklahoma.

A child who is adopted by American parents does not automatically acquire American citizenship. United States

citizenship can be acquired either by birth or by naturalization. The laws governing acquisition of U.S. citizenship are set forth in the Immigration and Nationality Act of 1952. In order for a child born outside the United States to acquire U.S. citizenship at birth, that child must be related by blood to the U.S. citizen parent upon whose citizenship the child's claim is based. U.S. law does not provide for acquisition of citizenship by an alien child adopted by U.S. citizen parents. However, Section 322 of the Immigration and Nationality Act provides for the expeditious naturalization of children under the age of 18 adopted by a United States citizen while under the age of 16, provided that child resides in the United States in the custody of the adoptive parents, pursuant to a lawful admission for permanent residence. To find out more about naturalization of an adopted child, the adopting parent should contact the nearest American embassy or consulate while residing abroad or the local office of the Immigration and Naturalization Service while in the United States.

If adopting parents follow established procedures for foreign adoption they may be temporarily frustrated by the vagueries of transnational bureaucracies, but in the long run they will find that avoiding so-called shortcuts will ultimately save time, effort and heartache. Any problems experienced by American citizens in dealing with foreign attorneys or adoption agencies regarding competance, gray market activities or illegal practices should be reported to the American embassy or consulate or to the Office of Citizens Consular Services of the Department of State.

International Adoptions: The Inter-American Problem

I. Background

American citizens began to adopt foreign children on a large scale following World War II. These children were generally refugees from European countries. Following the Korean War, the pool of available children shifted to the Far East. Similarly, after the Vietnam War, children became available in South East Asia. However, during the 1970's the number of children available for adoption in Asia decreased due in part to policies implemented by the new government in Vietnam and to the aggressive birth control campaign waged in many Asian countries, notably Korea, to lower their birth rates. At this juncture U.S. citizens, Canadians and Europeans seeking children to adopt turned to the Americas. Since large scale inter-country adoption is a relatively new phenomenon for Latin America, few countries have specific laws and policies which address the issue.

The majority of inter-country adoptions involving Latin American children are, no doubt, successful, providing the deprived child with a home and family. However, as in any market with excessive demand, the international adoption field offers an open invitation to unscrupulous opportunists willing to profit from the hopes and misfortunes of others. The practice of arranging for adoptions through informal intermediaries has come to be known as the "gray market". While such channels do not necessarily involve the buying and selling of babies or kidnapping, instances of such practices have caused many foreign countries to institute a policy of investigating adoption of their nationals by foreigners. Recent developments in the Americas illustrate the consequences of adoption through intermediaries.

II. Department of State Role

A. Guidance and Visas

The Department of State and its embassies and consulates abroad do not become directly involved in the adoption process, except as it relates to the issuance of visas. Generally, a U.S. resident couple adopting a foreign child must obtain a release for the child in accordance with the law of the place where the child resides. This may involve a full-scale adoption or it may be as simple as obtaining a signed consent from the natural parent. Once the foreign procedures are completed, the child should be able to accompany the adopting parents to the United States, provided they have successfully petitioned the Immigration and Naturalization Service for a visa for the child. If no formal adoption was concluded in the foreign country, it will be necessary to adopt the child under the law of the state in which the adopting parents reside.

Even if the child was adopted abroad, it may be desirable to re-adopt the child in the U.S. in order to avoid possible future difficulties.

If the adopting parents follow established procedures for foreign adoption they may be temporarily frustrated by the vagaries of transnational bureaucracies, but in the long run they will find that avoiding so-called short cuts will ultimately save time, effort and heartache.

Any problems experienced by American citizens in dealing with foreign attorneys or adoption agencies regarding competence, gray market activities or illegal practices should be reported to the American embassy or consulate or to the Bureau of Consular Affairs, Office of Citizens Consular Services (CA/OCS/CCS) of the Department of State.

When the Department of State learns that American citizens are encountering problems adopting children from a particular country, Citizens Consular Services may issued a travel advisory warning the public that it may be wise to avoid adoption in that country. In addition CCS may contact international adoptions agencies, the Immigration and Nationalization Service, and the press. This publicity can save other families from suffering similar experiences. Recognizing that inter-American adoptions were becoming a major problem, the Secretary of State's Advisory Committee on Private International Law's Study Group on the International Adoption of Minors was convened with a view toward educating and enlightening the adoption community and exploring other avenues of resolving the problem.

B. Problems in Adoptions

Citizens Consular Services (CCS) is responsible for providing assistance to U.S. citizens encountering problems abroad. CCS's interests in the problems of international adoption are varied. One particular area of concern is the high instance of Report of Birth fraud in most Inter-American countries, where the adopting parents, unable or unwilling to arrange for the legal entry of the alien child into the United States, attempt to represent the child as their natural off-spring. Those U.S. citizen adopting parents who are discovered by the consular officer in their efforts to fraudulently document the child and are unable or unwilling to obtain a U.S. visa, frequently attempt to illegally exit the host country with the child. This practice has several negative consequences. First, the U.S. citizen is exposed to the risk of arrest and imprisonment in the host country for

kidnapping and emmigration violations. Second, once the adopting parent reaches a U.S. port of entry, he must request humanitarian parole from the Immigration and Naturalization Service in order for the child to enter the United States.

Legally such a child should be turned back at the U.S. border and returned to the host country. Practically this is rarely done. Finally, the legality of the adoption itself is questionable. The U.S. citizen would be best advised to re-adopt the child in the United States. This process is not always easy as the release of the natural mother's parental rights must be verified by the court in the United States when no formal adoption proceeding took place in the foreign country.

The problems of adopting parents, as reflected in CCS casework, extend far beyond Report of Birth fraud. Many U.S. citizens advance large sums of money, well in excess of $10,000, to agents in foreign countries in the hopes that the adoption of a child can be arranged quickly. Although the "adoption" process is expedited, the adoption may not be legal. While, the U.S. citizen may have physical custody of the child in the foreign country, there is little chance the child will be permitted to leave the country without long delays of more than a year during which time the foreign authorities will investigate the adoption. Often U.S. citizens will discover that, after a frustrating expense of time and money, the child will never be released by the foreign court. Consequently, CCS receives many complaints from U.S. citizens about fraud perpetrated against them by local agents and about requests for assistance to streamline local procedures. When problems become very serious, the Department of State can issue a travel advisory such as the one which was issued in February 1982 regarding adoptions in Brazil, a copy of which is attached.

Another aspect of the inter-country adoption problem evinced in CCS is the phenomenon of U.S. citizen parents "dumping" adopted children back in the foreign country several years after the adoption has taken place and after some of these children have been naturalized as U.S. citizens. This abandonment of U.S. citizen children in foreign countries due to the failure of an adoption can in some respect be attributed to inadequate home studies and gray market adoption techniques which do not take into account the best interests of the children and the natural and adopting parents.

III. U.S. Concerns About Inter-American Adoptions

(This information was developed with the cooperation of the International Social Service (ISS), American Branch, a nonprofit, nonpolitical agency which is part of an international network of social service agencies that assist individuals and families whose problems cross national boundaries.)

The major problems with present Latin American/U.S. adoptions are:

-- Inadequate preparation of the potential adoptive families by qualified agencies with intercountry adoption experience.

If the families had been helped to think through the realities of adopting a child from a different cultural, linguistic, and racial background with undetermined medical problems, fewer adopting parents who chose to go ahead would be likely to experience bad surprises later.

-- A lack of correct information-sharing between the

adoptive families and agencies in both countries regarding the laws, policies, procedures, practices and risks as well as the child's background; Most parents get their information through parents' groups and the rest is "catch as catch can".

-- No follow up after the placement of the child in his/her new home and country, to ensure cultural adjustments and the legal status of the adoption in the U.S. -- including readoption in the state of residence and acquisition of U.S. citizenship.

-- No procedures or protections for the child or family in case the adoption fails. At this point, there is no agency with responsibility or other system in place to determine whether the child should be returned to his/her country of origin and no funds to cover costs.

State governments will not provide services or cover costs for these children if they are not citizens or their adoption is not locally recognized.

Information regarding patterns of activity of adoption brokers and document facilitators is only maintained when a problem develops.

IV. Recommendations for Improvements in the Latin American Adoption Programs

(This information was developed withthe cooperation of the International Social Service (ISS), American Branch, a nonprofit, nonpolitical agency, which is part of an international network of social service agencies that assist individuals and families whose problems cross national boundaries.)

-- U.S. law should require a licensed agency or insist that private agents not only do the home study but take responsibility after the placement for follow-up and for the child in case of failure.

-- The U.S. legal definition of what children can qualify for the orphan visa should be reevaluated and/or clarified to the other countries involved. Currently many children whose biological parents abandon or surrender them are being considered for adoption in their country but can not get U.S. visas. Also, relative adoptions need to be assessed as more Latin Americans gain legal status in the U.S. There are often significant complications involved for relatives in adopting nieces, nephews and other extended family members.

-- The laws should require that the adoption must be finalized in the U.S., in the adoptive parents' state of residence and that application for U.S. citizenship should be filed almost simultaneously, as is the law in most European countries. This should help avoid the legal limbo that currently is a risk for the child.

-- The establishment of a central, official clearinghouse in the U.S. on adoptions is being examined by the Secretary of State's Study Group on the Adoption of Minors. This issue should be pursued, as up to date, accurate information on international adoptions would prove invaluable for U.S. agencies and parents as well as agencies and governments abroad. This is currently the practice in countries such as Canada and Sweden and could either be in a government agency or contracted to a private organization.

V. Formal Efforts to Resolve the Inter-American Adoption Problem

The Inter-American Children's Institute conducted an interdisciplinary meeting in Quito, Ecuador on March 7-11, 1983 to study the adoption problem, to foster development and implementation of domestic legislation concerning the adoption of minors in accordance with modern trends and philosophy, and to formulate the bases for an international convention related to adoptions. The meeting of experts reported, in part, that the present number of abandoned and neglected children in Latin America is estimated at 25 - 30 million, but the number of young, healthy children available for adoption is negligible.

A draft Convention on the adoption of minors was prepared during the course of the Quito meeting. The Convention, a copy of which is annexed, addresses primarily questions as to which country's law is to apply to particular aspects of the process of international adoption of minors. The Convention thus has a rather limited focus and does not seek to address all aspects of such adoptions or even most of the problems encountered in connection with adoptions in this country of children from Latin America.

The draft Convention represents an initial effort to deal with those questions that the experts at Quito thought could be reasonably resolved at the Third Inter-American Specialized Conference on Private International Law in April at La Paz, Bolivia. It is likely, that additional problems will be raised for possible resolution at the Conference, and the U.S. delegation will probably make some proposals. However, a number of our proposals and those from other delegations that are not accepted for resolution at La Paz may be suitable for study and resolution before the next conference four years from now.

On January 6, a meeting was convened of the Study Group on International Adoption of Minors of the Secretary of State's Advisory Committee on Private International Law. The members of that study group are enumerated in the annexed roster. The study group concluded that the Convention in its present form does not address the majority of questions extant about international adoption and felt that the study group's concerns be conveyed by the U.S. delegation to the Conference with a view toward the eventual drafting of an additional protocol which could be adopted at a later date.

VI. Statistics

There is annexed a breakdown of IR-3 and IR-4 adoptions worldwide in FY 1983 by nationality of the adoptee.

Grand totals are 867 IR-3 petitions and 6,483 IR-4 petitions.

VII. Country by Country Analysis

There is annexed a country-by-country analysis of Inter-American adoption problems, drawn chiefly from U.S. Embassy reports.

VIII. Conclusion

American citizens who desire to adopt foreign children should be aware of the numerous problems and pitfalls which will beset them in the course of the tedious process of foreign adoptions. The child is a national of a foreign country, even after the adoption is concluded, and understandably remains of

concern to that country. Consequently, adopting parents should be certain that the procedures they follow in arranging for such an adoption comply with the laws of the foreign country. This is usually accomplished by dealing with a reputable international adoption agency. While consultation with a foreign attorney is sometimes useful, the adopting parents should be wary of anyone who claims to be able to streamline established procedures. Procedural irregularities which sometimes result from an intermediary's desire to speed up the process can result in the foreign government's determination that the adoption is illegal and the refusal of that government to permit the adopting parents to leave with or keep the child. Recent developments in many inter-American countries illustrate the consequences of adoption through intermediaries. The wariness of foreign authorities with regard to gray market adoptions makes it all the more desirable to enlist the services of a competent international adoption agency.

The draft Inter-American convention on the adoption of minors represents an important first step toward understanding and resolving the problems of intercountry adoption. However, the Convention will not solve all such difficulties and will not enter into force for some time. While anticipating international efforts to police transnational adoptions, there are steps which should be considered in the United States toward monitoring the adoption process. The Department of State, through its Adoptions Study Group, has initiated an education process which will hopefully enlighten the interested community in the matter of cross-cultural problems and gray market adoptions.

Attachments:

1. Statistics
2. Country by Country Analysis
3. Draft Inter-American convention on the adoption of minors
4. Report of the Meeting of Experts on Adoption of Minors Inter-American Children's Institute
5. Document for CIDIP III on Conclusions of Meeting of Experts on Adoption of Minors
6. Travel Advisory on Adoptions in Brazil
7. Roster of Adoption Study Group Members
8. ISS Adoptive Home Study Outline
9. Adoption Flyer
10. Pilotti Report: Inter-Country Adoption a View From Latin America
11. "Beware of Short Cuts in Foreign Adoptions"

IR-3 and IR-4 Visas Issued Fiscal Year 1983

IR-3: Orphan adopted abroad by U.S. citizen and spouse
IR-4: Orphan to be adopted in U.S. by U.S. citizen and spouse

Foreign State	IR-3	IR-4
(North America)		
Antigua and Barbuda	1	-
Bahamas	-	1
Barbados	-	1
Belize	1	7
Costa Rica	89	4

Foreign State	IR-3	IR-4
Cuba	1	-
Dominica	-	-
Dominican Republic	26	18
El Salvador	-	248
Grenada	2	-
Guatemala	19	83
Haiti	8	4
Honduras	88	8
Jamaica	9	34
Mexico	80	51
Nicaragua	-	10
Panama	8	-
St. Christopher and Nevis	-	-
St. Lucia	2	-
St. Vincent and the Grenadines	2	-
Trinidad and Tobago	-	1
(South America)		
Argentina	1	1
Bolivia	2	27
Brazil	5	47
Chile	-	179
Colombia	27	585
Ecuador	4	7
Guyana	1	6
Paraguay	4	6
Peru	10	9
Suriname	-	-
Uruguay	-	-
Venezuela	4	-
(Africa)		
Cape Verde	-	1
Ethiopia	1	1
Kenya	1	-
Mauritius	1	-
South Africa	-	1
Zimbabwe	2	-
(Asia)		
China (mainland born)	81	2
China (Taiwan born)	26	25
India	20	378
Indonesia	6	-
Iran	-	2
Israel	-	4
Japan	16	15
Jordan	1	1
Korea	127	4,418
Lebanon	6	10
Malaysia	-	1
Pakistan	-	8
Philippines	117	161
Sri Lanka	-	4
Thailand	2	12
Viet Nam	-	1

Foreign State	IR-3	IR-4
(Europe)		
Bulgaria	1	-
Cyprus	-	1
Czechoslovakia	2	-
Guadeloupe (France)	-	1
Federal Republic of Germany	6	4
U.K	1	6
(Hong Kong)	2	30
Greece	6	-
Hungary	3	-
Ireland	2	-
Italy	3	2
Malta	1	-
Poland	25	3
Portugal	6	16
Romania	-	3
Spain	1	2
Turkey	2	0
Yugoslavia	1	2

INTER-AMERICAN ADOPTION
COUNTRY BY COUNTRY ANALYSIS*

BRAZIL

Adoption of Brazilians by Americans poses problems shared by other countries as well as those unique to Brazil. In the past few years adoption has become even more complicated, prompting the Department to issue a travel advisory. Concurrently, the American Embassy and consulates in Brazil have noticed a drop in American citizen inquiries regarding adoption. The travel advisory, issued by the Citizens Emergency Center, Overseas Citizens Services, Bureau of Consular Affairs, Department of State on 2/9/82 reads:

QUOTE: Travel Advisory - Brazilian Adoptions

In recent months, several cases have come to the attention of the Department of State which demonstrate the considerable problems confronting American citizens travelling to Brazil to adopt Brazilian children. Presently, it is not clear whether persons who are not permanent residents of Brazil are eligible to adopt children under Brazilian law. Therefore, the Department of State recommends that American citizens who are not permanently residing in Brazil not attempt to adopt Brazilian children during temporary visits to that country. Any American citizen who begins the processing of such an adoption at this time is likely experience lengthy and to costly delays involving Brazilian court procedures and the distinct possibility that the adoption will ultimately be declared invalid under Brazilian law. UNQUOTE.

The Department of State's understanding of adoptions in Brazil is as follows:

A. I-600 petition filed with INS;
B. Home study performed by a state licensed public or private agency;

*These analyses are drawn chiefly from U.S. Embassy reports. All sources are noted at the end of each section.

C. Child identified as available for adoption in Brazil via adoption agency or private source;
D. Adoption finalized in short Brazilian procedure;
E. Application made for Brazilian passport in Brasilia;
F. Investigation of adoption ordered in place where short procedure took place;
G. Review of adoption by Brazilian court as to procedural irregularities and contradiction between civil code and minors code;
H. Adoption approved or disapproved by the court;
I. Brazilian passport issued;
J. Visa approved and issued;
K. Child permitted to leave Brazil;

Delays of a year or more can occur in such cases with no guarantee that the child will ever be permitted to depart.

Americans wishing to adopt Brazilian children are first informed of the complicated nature of the process. The adoption must comply with Brazilian legal requirements; therefore, the advice and retention of a competent Brazilian attorney in always recommended. The most frustrating adoption cases either involve no Brazilian attorney or an attorney brought late into the process after difficulties have been encountered.

Brazilian law allows for adoption by foreigners not resident in Brazil, although recently public opinion in favor of limiting such adoptions has arisen. Because of this sensitivity the consulates in Brazil avoid active participation in actually locating children for adoption or in the adoption process itself. For assistance, Americans are directed to appropriate international private or church organizations with offices in the U.S.

There are two types of adoption in Brazil; "Full Adoption" available to Brazilian citizens and resident foreigners and "Simple" adoption available to non-resident foreigners. Full adoption requires a supervised trial period of at least one year; at the discretion of the court, the trial period may be modified for simple adoptions or waived completely for children under one year of age. The Embassy is concerned that the discretion of the court not be used to unnecessarily delay or bar an otherwise approvable adoption. One Judge recently required the physical presence of an American couple in Brazil for a trial period of two months, which was not possible for personal and financial reasons.

(Source: American Embassy Report, 1/84)

CHILE

Adoption of Chilean children by foreigners are now being carefully investigated by local authorities due to procedural irregularities and possible black market operations. Court orders are now being required for all adoptions and there is no evidence of substantial problems. Petitions for guardianship of the children are processed by the Court of Minors of the city where the children reside. Such petitions have been filed by private attorneys, by the Instituto Chileno de Colonias y Campamentos and by Nuestra Senora de la Paz, a home for minors.

(Source: American Embassy 4/83)

COLOMBIA

The Colombian Family Welfare Institute (Instituto Colombiano de Bienestar Familar) (BIENESTAR) is continuing to tighten up

adoption procedures throughout Colombia in light of adoption irregularities such as falsifying birth records and the practice of paying poor mothers to abandon their babies. It is particularly risky to make adoption arrangements through private attorneys. Adoptions are processed by private agencies licensed by BIENESTAR, which is insisting on more stringent screening of applications to adopt and moving to centralize adoptions from around Colombia at BIENESTAR in Bogota.

Once an adoption agency has been contacted, the agencies request that the adopting couple submit a detailed questionnaire about themselves and send various documents such as the couple's birth and marriage certificates attesting to their health, a number of personal references and evidence of their financial ability to support the child. The couple must also submit a home-study from an agency licensed by their state of residence to conduct such studies, although one particular adoption agency (La Casa de la Madre y Nino) withholds del final approval of the adoption until after the couple comes to Colombia for an interview. Almost all of the American civil documents must be translated into Spanish and authenticated by the Colombian consul in the U.S.

If the couple is accepted by an agency, they are sent a report concerning the child that is to be adopted, describing the child's health and whatever is known of his/her background. The agency also advises the couple about the documentation needed for the Colombian adoption court.

The adopting couple must execute an I-600 orphan petition with the U.S. Immigration and Naturalization Service well before they come to Colombia. After the couple arrives in Colombia, a lawyer associated with the agency offering the child for adoption is assigned to their case, and their petition to adopt the child is presented to a Colombian adoption court. Initially the court grants legal custody of the child to the adoptive parents. Thereupon BIENESTAR issued a permit to take the child out of Colombia, and a Colombian passport is issued for the child. The process takes several months, sometimes up to six months, to reach this stage. The couple is then free to leave Colombia with the child as long as the Immigration and Naturalization Service has approved the I-600 petition and the U.S. visa is obtained. In the event the adopting couple cannot go to Colombia to formalize the adoption and take the child home, they can send a power of attorney to the lawyer for him to represent the adoptive parents in the Colombian courts, and the child can be escorted to the U.S., usually by an agency employee at the adopting parents' expense. The final adoption decree is usually granted in approximately six to nine months after the granting of custody; the couple need not return to Colombia to obtain the final decree.

The great majority of adoptions in Colombia are processed in Bogota with the result that the adoption courts have an extremely heavy workload, often resulting in a delay in the issuance of the final decree.

It is strongly recommended that adopting parents advise the American Embassy or the Department of State if fees for Colombia adoptions are significantly higher than $2,000-$2,500. which is the usual range for adoption costs, including legal fees.

(Source: American Embassy Report, 5/82; International Social Service Report, Intercountry Adoptions Between the United States and Colombia, 3/82.)

COSTA RICA

The appropriate civil court in Costa Rica approves the adoption and refers the case to Patronato Nacional de la Infancia (National Child Welfare Board) for review. Patronato may approve the adoption or file an objection with the court. Patronato's central office in San Jose is determined to object to every adoption case in which they have the slightest doubt as to the manner in which the natural mother gave up the child for adoption. According to the American Embassy in San Jose, there is no basis for allegations of a black market in children in Costa Rica. The courts have the final say in adoption matters and as long as they defer to the Patronato for "studies" or "investigations" the adoptions will be held up for an indefinite period of time with no guarantee that they will ever be approved. When Patronato approves a case the matter is referred to the supreme court for final decision.

All adoptions in Costa Rica are monitored by the Patronato Nacional de la Infancia (national child welfare board), which must approve all adoptions. The courts are empowered to overrule the Patronato's objections, but this occurs infrequently. A child may not leave Costa Rica until the adoption is final, except in the rarest of cases involving medical emergencies. Only three children have been permitted to immigrate to the U.S. in the past three years before adoption procedures were completed.

Children may be adopted directly from patronato orphanages or through arrangements made directly with a private individual, usually an expectant mother. The Patronato takes a dim view of the "private adoption" route, and within the past year has begun to intervene in these cases by objecting during each step of the adoption process, resulting in lengthy delays. The average adoption takes from 3 to 6 months to complete; with adverse intervention by the patronato, the process can last more than a year. During that time, the child usually resides in an orphanage and misses many months of individual care and nurture. The Patronato would like to cut out private adoptions altogether, but as they are permitted under the law, the patronato has decided to discourage them bureaucratically.

The policy of the Patronato is to restrict adoption by foreigners to children over the age of four, unless the adopting parents are willing to take a sibling group. They believe that local adopting parents should be given priority for the "more desirable" infants.

In spite of the Patronato's shortcomings, its interest in adoptions has saved Costa Rica the scandals which plague inter-country adoptions elsewhere. The Patronato is always vigilant and determined in its efforts to avoid black-marketing of children, erring, if at all, on the side of over-zealousness. (Source: American Embassy Report 6/83)

DOMINICAN REPUBLIC

The Dominican Attorney General has imposed restrictions on the emigration of children adopted by foreigners, making the adoption/visa process more complicated for adoptive parents. U.S. citizens whose adoptive children are affected by ongoing police investigations into baby selling allegations are experiencing delays in the processing of their cases.

On May 3, 1983. the Procurado General (Attorney General) issued an order to Dominican immigration authorities barring the departure of children adopted by foreign parents, unless both the Attorney General and Secretary of Public Health had given

their authorization. Since the adoption process ordinarily requires routine approval of the Attorney General and Public Health Ministry, it is unclear whether the May 3 order inplies that a second, separate, approval must be obtained in each case, or whether a child may depart if the adoption process has met normal legal requisites.

Since the Dominican adoption process imposes qualifications that relatively few adoptive parents can satisfy, most adoptive American parents have pursued the simpler IR-4 route, which in the past required an affidavit (waiver) from the natural mother for the issuance of a Dominican passport and travel authorization for the child. The Attorney General's order does not explicitly deal with this category of child, but the Embassy expects these children will not be permitted to travel.

In several past instances adoptive parents have arrived in Santo Domingo to pick up their children before the Embassy has received an approved I-600 or before necessary local paperwork (issuance of a Dominican passport or birth certificate) has been completed. Anxious adoptive parents will now face further delays in the process, made necessary by evident anomalies in documents prepared locally, and by possible criminal acts in the Dominican Republic on the part of placement agents and attorneys.

(Source: American Embassy, 5/83)

* * *

The following information is provided by the American Embassy to United States citizens who wish to consider the adoption of children born in the Dominican Republic.

Since adoption in the Dominican Republic is a judicial proceeding, persons interested in adopting a child should hire a local attorney to deal with the requirements of the Dominican law.

The U.S. Embassy maintains a current list of Dominican attorneys. Although it cannot recommend any of the attorneys on the list or vouch for their professional ability or integrity, listed attorneys are considered reputable. A copy of the attorneys list can be obtained from the Citizens Services Unit of the Consular Section of the U.S. Embassy or from the Office of Citizens Consular Services of the Department of State, Room 4817, Washington, D.C. 20520.

Adoption Procedures in the Dominican Republic

Persons adopting a child in the Dominican Republic must first obtain a release of the child in accordance with Dominican law. Once Dominican legal procedures for adoption are completed, the adoptive parents should petition the U.S. Immigration and Naturalization Service for the appropriate visa for the child. If there was no adoption in the Dominican Republic, it will be necessary to adopt the child under the laws of the state in which the prospective parents reside.

An entire adoption proceeding in the Dominican Republic, from the original release of the child for adoption to the final adoption decree, can take from two and one half months to three months. A Dominican attorney can appear for the adopting parents throughout the entire process, if he has a power of attorney to act on their behalf.

Adoption in the Dominican Republic is covered in Chapter III, Title VII of the Civil Code of the Dominican Republic. The basic procedures and requirements of the Code are set forth below.

General Background

The Dominican governmental authority in charge of adoptions is the Secretaria de Salud Publica y Asistencia Social, located in Ensanche La Fe, Santo Domingo, Dominican Republic.

Art. 344 - A person must be 40 years of age to adopt a Dominican child. However, two persons who have been married for more than 20 years and have not had a child of the marriage, may adopt a child if one or the spouses is more than 35 years of age. The adopting parents cannot have any legitimate descendants on the day of the adoption.

Consent

Art. 347 - The consent of the natural parents is required to adopt a minor child. If one of the parents is deceased or is incapable of expressing his or her will, the consent of the other parent is sufficient. If the parents are separated or divorced, the consent of the parent having custody is sufficient. If the parent not having custody has not given his consent, he must be notified of the act of adoption. Three months must elapse after such notification before the act of adoption can be pronounced.

Arts. 348; 358 - The consent of the natural parent(s) can be given in the act of adoption or in a separate act before a notary, before a Peace Justice of the domicile of the child, or before a U.S. consular officer.

Art. 349 - If both parents of the minor child are deceased or if they are incapable of expressing their will, the consent can be given by the legal representative of the child. When the child's parents are unknown, the consent is given by a tutor ad hoc assigned by the Secretariat of Health and Welfare.

Judicial Proceeding

Arts. 361; 364 - An adoption proceeding takes place in a court of law. The court issues the act of adoption which must be pronounced at a public audience. An extract of the same is published in the Official Gazette ("Gaceta Oficial"), as well as in a newspaper of wide national circulation. Within three months of the public pronouncement of the decree, the act of adoption is entered at the civil registry where the child was born. The act of adoption must then be entered in the Civil Registry in Santo Domingo, at the Board of Elections ("Junta Central Electoral").

Visa Requirement

A visa must be obtained for the entry of an alien child into the U.S., whether the child has already been adopted in the Dominican Republic or is going to be adopted in the U.S. A petitioner residing in the U.S. should send the completed petition and supporting documents to the District Director of the Immigration and Naturalization Service having jurisdiction over his place of residence.

(Source: U.S. Embassy Flyer: Adoption in the Dominican Republic, 9/82.)

ECUADOR

In order for Ecuadorian children to be adopted abroad by foreigners, Ecuadorian law requires that they first be adopted in Ecuador and that the local adoption conform with all applicable laws and regulations.

There have been problems in Ecuador involving black market baby operations in recent years. Several such children were found to have been physically abused by the adopting parents.

In September of 1981 the Government of Ecuador passed a new adoption law and has become extremely cautious about any children leaving the country unaccompanied by parents or relatives even under the strictest safeguards. Approval for adoption by foreigners will be extremely difficult if not impossible to obtain. The American Embassy has recommended that U.S. citizens be advised against attempts to adopt children in Ecuador.

The Ecuadorean adoption law states that a foreign national who wishes to adopt an Ecuadorean minor shall personally file a request with the court of minors in Ecuador. There is no waiver or exception to this law. Prospective parents are required to be physically present so that the Court of Minors officials can judge the moral character of the parents. It is not possible to say how long the prospective parents will be required to remain in Ecuador for various personal interviews. When the new adoption law was enacted in 1981, implementing regulations were not written into its provisions. This circumstance created procedural problems in the adoption process. Only after a lengthy review of the adoption file by officials of the Ministry of Social Welfare, meeting in committee, with the Director of Adoptions, will an adoption be authorized by the Minister of Social Welfare. For that reason, the American Embassy advises that the waiting period is a long one and there is no assurance that adoption approvals will ultimately be granted. Any U.S. citizen who tries to process an adoption at this time seems likely to experience years of delay involving complex but undefined legal procedures and with the distinct possibility that the adoption will ultimately be denied.

(Source: American Embassy Report, 8/82)

EL SALVADOR

The American Embassy does not consider that there are large numbers of orphans available for adoption in El Salvador. The Governnent of El Salvador takes great pains to verify that children have indeed been abandoned or have lost their parents and are not simply temporarily separated from their families as a result of the hostilities. There is, consequently, a long waiting list for Americans and other nationalities interested in adopting Salvadoran children.

In addition, allegations of a black market baby operation in El Salvador in which improperly documented children were given up for adoption to American couples have prompted investigation into such adoptions by local authorities. These fraud investigations by both the El Salvador authorities and the American Embassy have caused further delays in processing adoption cases.

For American couples wishing to adopt Salvadoran children, the Embassy recommends that they contact the Seccion de Adoption, Procuraduria General de Pobres, Centro de Gobierno, San Salvador for detailed information on procedures and requirements.

Experience has shown that obtaining documents both in the U.S. and in El Salvador can be time consuming and frustrating and it is therefore difficult to state accurately how long it takes to adopt a child. The Embassy has had cases which were processed in three months and others that took more than a year.

The Public Ministry's District Attorney's Office (Ministry of Justice) is the department responsible for the placement of orphaned children for adoption. It investigates, approves potential parents and administers various orphanages in El Salvador. The Public Ministry District Attorney's Office of the Poor arranges for adoptions through adoption agencies and through local legal representatives. It does not place orphans directly with families in the U.S. The Salvadorans do not require that U.S. families have to come to El Salvador in connection with the adoption although some courts recommend that one parent visit with the child prior to the adoption. If the parents do not come to see the child in El Salvador prior to the adoption they must readopt the child in the U.S. Adoption must be finalized in El Salvador prior to the departure of the child to the U.S. This entails that the court declares that either the parents are unable to care for the child, that the parents have declared to the court that they wish to give up the child for adoption, and that both parents' whereabouts have been accounted for to the satisfaction of the court.

American couples might wish to utilize the services of an International Adoption Agency rather than a private agent in order to avoid time-consuming and costly difficulties in locating a child to adopt and arranging for the exit of the child from El Salvador.

(Source: American Embassy Report, 3/83)

GUATEMALA

There is no requirement that the adoptive parents establish legal residence in Guatemala to complete an adoption.

(Source: American Embassy, 5/82)

Working through a private attorney, a U.S. citizen can adopt a child in Guatemala from a local orphanage, such as the Hogar Elisa Martinez Orphanage. The adoption is finalized when the Ministerio Publico (Ministry of Social Affairs) approves the adoption and that approval is signed by the head of the orphanage. Upon signature the document will be registered with the civil registry as confirmation of the final adoption in Guatemala. Once the document is translated into English and authenticated at the Embassy, the documents are mailed to the adopting parents. After the Ministerio Publico approves the adoption, the remaining paperwork takes approximately fifteen days.

Guatemalan adoption procedures now in effect.

- Guatemalan international adoptions can be either completed in Guatemala through a "Notarial deed of adoption" before the child travels, or they can be six-month provisional adoptions. For the later, the adoption is completed in Guatemala after a (U.S.) social worker certifies the satisfactory adjustment during and after the child lives six months with the adoptive parents in their residence (in the United States). Provisional adoption is the invariable arrangement for three reputable adoption organizations in Guatemala, including the government child welfare bureau

(secretaria de bienestar social) and two private adoption agencies/orphanages. Three other private, government recognized agencies/orphanages always complete the adoptions in Guatemala first, with the notarial final deed. So-called "Private" adoptions, in which an attorney locates a child and completes the legal work to a final adoption in Guatemala, are always concluded with this same notarial deed. These two procedures, whether provisional or notarially completed, are the only correct bases at present for the issuance of a Guatemalan passport to a child at the application of a person other than the child's own parent(s).

- The documentary foundation for the final notarial deed should be relatively reliable, but intrinsic weakness in the civil registration of births may vitiate the validity of the most basic document of the series: the child's original birth certificate. The documentary chain begins with that birth certificate; next is the sole parent's or both parents' irrevocable release document. At that point an attorney or agency asks a family court for a "social study" by a court-assigned social worker of the biological mother or family circumstances and of the child. The social worker also analyzes the home study done on the adoptive parents. If the resulting recommendation is favorable, the attorney/agency then submits the case to the Ministerio Publico, roughly equivalent to the attorney general's office, for review. If they approve, the lawyer then draws up the final notarial deed, with which he obtains a new birth certificate in the adopting parents' names (the old is supposed to be suppressed but rural civil registrars often don't know that) and the Guatemalan passport in the adoptive surname.

- the weakness in civil registration of births is that it is quite possible, and often happens, for a woman not the mother to present herself to the civil registry with a child to register the birth as her child. Hospital birth certificates are not always required and midwife certificates are far from reliable. Hence, one's nephew, or grandchild or a baby found on the street can be passed off as one's own, with little problem; it is of course against Guatemala law thus to falsify a birth registration, but it is done all the time. Footprints, fingerprints, and bloodtests are not part of the process. The opportunities for unscrupulous "Adoption Rings" are quite obvious. The convergence of present Guatemalan adoption procedures with U.S. Immigration and Naturalization Service requirements is sufficiently satisfactory as not to present any serious obstacles to U.S. citizens seeking to adopt from Guatemala, or any particular clashes between the two bodies of legal practice. The American Embassy issued 105 orphan visas in FY 1982 and 106 in FY 1983.

Guatemalan law on international adoption is scattered through several sections of the legal code. A comprehensive law tightening up current practice was proposed by a distinguished study committee in February 1982. Local attorneys objected because they foresaw they would have fewer clients under the proposed law, which would make all adoptions provisional and would require that adopting parents be approved beforehand by any one of several authorized Guatemalan adoption agencies. The proposed law does not really indicate a diminution of lawyers' activity, and it remains to be seen whether the requirement of agency approval of intending adopting parents would end the greatest problem in adoptions from Guatemala: the gray legal area that permits caretakers to turn themselves into baby-traffickers, and in which the term "child search fee" becomes a euphemism for the price of buying a baby.

This gray area derives from the lack of specific regulation of caretaker status. A kind-hearted woman could theoretically take in an indefinite number of children found abandoned or neglected or handed over by indigent mothers, and effect their adoption quite legally through lawyers of integrity. In practice, the opportunity for a very profitable business (estimated profits per child range from $800 to $12,000 -- the latter probably an exaggeration) has been taken up by an unknown number of entrepreneurs. They would not be breaking any law unless they falsified birth registrations by, for example, having one of their servants present herself as a child's mother; unless they kidnapped children or refused to return a child to a natural parent if the parent changed his mind; or bought children; or sold children; or committee crimes such as murder to protect their business -- in which case they might be raided by Guatemalan police and detained, as happened in May and June 1983 to two "adoption rings." Gray becomes even grayer when buying/selling children is euphemized as "paying the mother's hospital costs, paying childcare, giving a little gift to the family, etc." Such a business requires a collaborating lawyer or lawyers to complete the chain of legal work; and though lawyers have been sought and detained by Guatemalan police, they usually extricate themselves successfully by denying knowledge of illegalities. The Embassy has found no sure way to avoid being fooled by apparently good documentation; but by broadening and deepening relations with legitimate agencies, by requiring a copy of the court social worker's report, by investigating any suspect intermediary and by requiring personal interview of the natural mother in certain cases, Embassy appears to have established a reputation as not being an easy mark for the gray market.
(Source: American Embassy Report, 1/84

HAITI

In Haiti there are a number of restrictions imposed on potential adopting parents. Persons who are already parents of legitimate or acknowledged children are not allowed to adopt children. This prohibition is not absolute. It may be overcome by a waiver obtained from the President of Haiti. Nor does the prohibition apply to persons having other adopted children. These persons may adopt additional children - no wavier is required.

In general, the law does not allow an adoption by one single individual. Two persons may adopt a child if they prove to be a married couple who have been married for at least 10 years and have no offspring from their marriage. (Please note, that despite all of these restrictions, some type of waiver is always possible.)

If a couple is considering adopting a Haitian child, the Embassy strongly recommends that they arrange for adoption of the child in the United States ((IR-4) child to be adopted in the U.S.) as opposed to adopting in Haiti ((IR-3) child adopted abroad.) Legal procedures for adopting a child in Haiti take at least nine months and can be fairly expensive. The adoption fee may range anywhere from $300.00 to $500.00, or possibly higher, depending on the circumstances in each individual case. This fee includes the price of a Haitian passport and the lawyer's fee for processing the case.

(Source: American Embassy Report, 1/84

HONDURAS

All adoptions in Honduras must pass through the Junta Nacional de Bienestar Social for completion of an official home study before adoption decrees can be issued.

American citizens attempting to adopt children in Honduras should beware of unscrupulous lawyers charging high fees for routine legal work. The Embassy has heard of fees from $800 for the adoption and $600 to acquire Honduras residency (a Honduras legal prerequisite for foreigners to adopt a Honduran child) to $1500 for the adoption and $1500 for the residency. Information from other sources indicates that the normal price for a residency in Honduras is around $200 to $300 and can be acquired from the Honduran consulate in the U.S. for as little as $130.

In addition, American citizens should be aware that an abandoned child with two living natural parents who has been recognized by the natural father, regardless of whether the child is legitimate or not is not considered to be an orphan by US INS and is therefore not eligible for a visa. However, some U.S. citizens have finalized adoptions for such children, been unable to bring them to the U.S. and unable to leave the children in Honduras.

(Source: American Embassy Report, 5/83)

The Embassy was informed by a social worker of the Junta Nacional be Bienestar Social that priority in adoptions will be given to married couples. Although single parents may still adopt in Honduras they must plan to spend at least two months there. This results from bad experiences with several single women who have come to Honduras in the past year to adopt. Local attorneys have been told by authorities not to encourage single parents to adopt in Honduras.

Adoptions by United States citizens (and others as well) have greatly increased in Honduras. Under Honduran law adoptions must be completed here before the adoptee is allowed to leave. This involves a complex legal process and makes the services of a competent attorney essential. It also involves both parties, if married, to be present in Honduras at least part of the time. The American Embassy finds authorities in Honduras to be consistent in their application of the law and cooperative.

Problems arise when adopting parents do not select a competent attorney and when they are not prepared to spend sufficient time in the legal process here. Honduran law is specific and authorities in general conscientious, but several papers must be drawn up, signed, and notarized. This can take from 4 to 8 weeks. In the past some attorneys have not taken care to assure that papers are in order, and, at the last minute, problems arise which may cause heartache and delay.

Another area of concern is that a child, although legally adopted in Honduras, will not qualify as an orphan under states law or in some other way be found ineligible for residency. The adopting parents then find themselves in the difficult position of having a child, legally theirs under local law, which they cannot take to the United States. This can be avoided again by selecting an experienced attorney, knowledgable in the laws of both countries, by checking with United States officials here, and by insisting on a complete medical exam for the child as soon as possible and before-repeat before-the adoption process is completed. The exam should include x rays if tuberculosis is at all suspected.

The consular section has available a list of competent attorneys as well as an adoption pamphlet. The Embassy encourages adopting parents to discuss procedures with its consular officers as early as possible and repeat necessity for working with competent, experienced lawyer.

(Source: American Embassy Report, 1/84)

JAMAICA

All adoptions are handled by the Adoption Board located at 26 Beechwood Avenue, Kingston, 5 Tel: (809) 926-6930. The following steps have to be taken:

1. The child is placed for adoption by the Board.

2. One or more persons are appointed to keep the child under close supervision.

3. After three months from the date on which the child is delivered into the care and possession of the prospective adopters, the adopters may apply to the Court for an Adoption Order, provided this is done within three months from the expiration of the three month trial period.

4. Before the Order is granted, the Board investigates the applicants and the child. The case of each child is considered by a Committee 9a (case committee) comprised of not less than three members of the Adoption Board, to ensure the suitability of the child and adopter, respectively, and to report on the health of the child and the adopter. The adopter must be interviewed by the case committee and the premises in the island in which the adopter to the Court and the adoption is determined.

There are certain pre-requisites which must be complied with before the order can be made:

1. The applicant must be (a) at least 25, or (b) at least 21 and a relative of the child; and (c) the mother or father of the child.

2. The consent of the parent or guardian of the child or any person who is liable by virtue of any order of agreement to contribute to the maintenance of the child must be obtained.

There are, however, certain cases where this consent may be dispensed with. For example, when the child has been abandoned, neglected or persistently ill-treated. The whole process should under normal circumstances take between three to six months, provided there are no complications (for example, regarding consent to adoption by the parents or guardian). The final document is entitled an Adoption Order which is made by the Resident Magistrate for the particular parish and involves the exercise of a judicial discretion.

Adoptions in Jamaica

1. Jamaican adoption law and procedures are already in accordance with the proposed convention outlined in reftel. Although US citizens are practically prevented from adopting in Jamaica (IR-3 cases), numerous provisions aid in the adoption of Jamaican children in the U.S.

2. The Adoption of Children Act of 1958 provides a comprehensive treatment of adoption procedures in Jamaica. A court approved adoption accords full-blood relative status to the adopted child, and completely dissolves any legal relationship between the adopted child and his natural parents. Unlike in some U.S. jurisdictions, the adopted child may not conduct a search for his natural parents upon reaching the age of 18. More relevant is the requirement that any adopter in Jamaica must be domiciled and resident in Jamaica (although he need not be a Jamaican citizen); the act states

that an adopter must be living in Jamaica permanently, with the intent to remain in Jamaica permanently.

3. Section 24 of the act specifies that in cases of Jamaican children to be adopted overseas, the Jamaican adoption board (JAB) must ensure that a home-study is completed in the jurisdiction of adoption. In such cases, family courts may issue a "Licence" to allow a child to depart for one of the specified countries (all commonwealth countries, the US, and Sweden) for the purpose of adoption. JAB indicates that they have long cooperated with private and public adoption agencies in New York, Florida, Kentucky, Wisconsin, and elsewhere, to ensure compliance with Section 24. Of course, since Jamaican immigration authorities will undoubtedly prevent an IR-4 immigrant from departing without a "Licence", the apparatus is in place to provide for a home study in the case of any child traveling abroad for adoption.(Source: American Embassy American Citizens Information Booklet, 5/83)

4. Despite the rigorous treatment of adoption by the act, the Embassy has found considerable deviation from the law in practice; Jamaican citizens clearly domiciled and resident in the US frequently obtain custody of Jamaican children through adoption, despite the explicit prohibition of this in the act. US citizens, however, would apparently experience no extraordinary difficulty in adopting through the mechanisms embodied in the IR-4 category; the JAB seems anxious and able to assist any qualified adopters.

(Source: American Embassy Report, 1/84)

MEXICO

According to the Mexican Civil Code, any person of good morals, 21 years old and over can adopt granted that he/she has the means to care for the physical and eductional needs of the adoptee.
The office of the INS Director in Mexico City has commented that the regulatory requirement of a home study has, in some cases, unnecessarily delayed approval of orphan petitions. A suggested change in regulations would be to allow a home study performed in a foreign country by a recognized agency to be accepted by the overseas INS office when the petitioners reside abroad. This would be in lieu of home study performed in the United States. Present regulations require that the study must be performed by a licensed agent or agency in the USA, a very expensive and cumbersone procedure for adopting U.S. citizens who reside in a foreign country.

Americans who wish to adopt a Mexican child must do so in Mexico in accordance with Mexican law. The legal structures for adoption in Mexico are, in general, similar to those in the United States.

There are two important requirements to keep in mind:

(a) The child to be adopted MUST be an orphan. He must be either an abandoned child or have only one surviving parent.

(b) At least one of the adopting parents must be a U.S. citizen. The U.S. citizen must file the petition for the child. Under U.S. Immigration Law, two resident aliens in the U.S. may not adopt a child abroad.

In order to adopt in Mexican court, you must comply with the following requirements:

1. Obtain a certified copy of the child's birth certificate;

2. Obtain a release from the natural parents. This release must be issued before a judge or a notary public;

3. Present your original marriage certificate or a certified copy;

4. Present a medical certificate establishing excellent physical and mental health of the adopting parents;

5. Present a statement from the adopting father's employer indicating that the employment is full time and stating his salary. A certified copy of the last income tax return is also recommended;

6. Present two letters of recommendation;

7. Have two witnesses;

All foreign documents must be legalized by the corresponding Mexican Consulate in the United States and by the Foreign Ministry. In addition, all these documents must be translated into Spanish by an official translator.

The adoption procedure includes a 6 month trial period, during which the child lives with the adopting parents to make certain that a permanent arrangement will be beneficial to both parties. This trial period may be waived, at the judge's discretion, for foreign adopting parents. There is, however, no guarantee that it will, in fact, be waived in any particular case.

Because the adoption is not final during the trial period, documentation cannot be obtained for the child to travel either out of Mexico or into the United States. It is, therefore, extremely important that the adopting parents attempt, through their attorney or adoption agency, to have the trial period waived; otherwise they will be obliged to remain in Mexico to take care of the child during the trial period.

If the adopting parents do not already have a specific child in mind, they may obtain information about available orphans by writing to the institutions listed below:

Asilo de la Paz
Hermanas del Sacrado Corazon
Esq. Calle Zamora y Juan de la Barrera
Mexico 11, D.F., MEXICO

Instituto Mexicano de Asistencia a la Ninez
Calzada Tlalpan 1677
Mexico 21, D.F. MEXICO

An alien child must have an immigrant visa in order to be admitted into the United States to reside permanently with the adopting parents. Make contact with the regional Immigration and Naturalization office well in advance of any step toward adopting a child so that you will be aware of all pre-adoption and adoption requirements. It is not sufficient for the adopting parents to present merely the written consent of the natural parent or parents indicating that they forego all legal custody over the child in question. The Mexican passport office will not issue a passport to a Mexican child undergoing adoption procedures until they have a copy of the judge's final decree of adoption awarding the American parents legal custody of the child.

(Source: American Embassy Report, 1/84)

NICARAGUA

The Nicaraguan Adoption Law, as modified in November 1981 provides that the adopter must be of one of two categories; (A) Nicaraguan Citizens or (B) Foreign Residents of Nicaragua who intend to stay in Nicaragua until the child reaches 18.

(Source: American Embassy 12/83)

VENEZUELA

Venezuelan law on adoption does not prohibit an adoption there by a non-resident alien person or couple; as far as the Embassy can tell, it simply does not address the possibility, and some of the law's provisions would make such an adoption difficult or impossible. Article 22 of the 1983 adoption law and the corresponding article of the previous law gives jurisdiction in adoption cases to the court in the place of domicile of the adopter. Article 20 requires that the child to be adopted spend at least three months in the home of the prospective adoptive parents before a final decree may be issued. The home is subject to inspection by a representative of the National Institute for Minors. The adoption process is a lengthy one, with specified delays between each step.

Adoption even by a resident alien is not easy. An officer of the Embassy managed to adopt a Venezuelan child this year. He began looking for a child in February, but received no cooperation from the Venezuelan National Institute for Minors until April. Thereafter the process took seven months and involved an enormous amount of paperwork, some of which (birth certificates, marriage certificate, etc.) had to originate in the United States and be certified by the appropriate Venezuelan consul there. It also involved numerous visits by the officer to the National Institute for Minors. The officer's home was visited by a representative of the Institute once prior to the time he was given the child and once afterward. All dealings with the court and the Institute, oral and written, had to be conducted in Spanish.

Fraudulent adoptions, which amount to no more than the handing over of a baby and permitting the "adoptive parents" to register the child as their own, are not uncommon. The Embassy has had a number of cases where non-resident American citizens have come to Venezuela to obtain a child in this manner and then have tried to document the child as an American citizen, i.e., representing the child as their natural child.

(Source: American Embassy Report, 1/84)

STATE OF KANSAS

JOHN CARLIN, Governor

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ROBERT C. HARDER, Secretary

March 9, 1984

Honorable Senator Dole
Hart Building - No. 141
Washington, D.C. 20510

RE: Senate Bill 2299

Dear Senator Dole:

My staff and I applaud your efforts, as demonstrated by Senate Bill 2299, to provide certain safeguards from fraudulent activities to adoptive families and relinquishing parents. We in Kansas are very much aware of the need for such legislation and will wholeheartedly support the passage of this bill.

In addition to the stipulations of your bill, we would like to suggest as a means of strengthening the Interstate Compact on Children that all adoptions made across state lines be finalized in the state of residence of the family. This would assure to the court granting the adoption accurate and complete information on the adoptive family and assure that the laws of the state were not circumvented.

My staff stand ready to provide you with any information you might need which would serve to support this piece of legislation.

Sincerely,

Robert C. Barnum
Commissioner

RCB:ll

CONCERNED UNITED BIRTHPARENTS, INC.

U
B

March 13, 1984

Scott E. Morgan
Senator Bob Dole Office
U.S. Senate
Washington, D. C. 20510

RE: S. 2299

Dear Mr. Morgan:

I am writing on behalf of Concerned United Birthparents, Inc. (CUB), a national organization providing support to families separated by adoption, supporting passage of Senate Bill 2299.

We believe that it is most decidely in the best interest of all parties for fraud to be prevented in any adoption proceedings. The administration of an adoption through proper channels does provide a safe-guard for both the child and the parents... both adoptive and birthparents. We would also like to see included that each child be checked through the federal registry of missing children. Our only concern is that this bill also protect the right of the adoptive parents and birthparents to arrange a legal independent adoption. We feel that this is a decision that should be available to birthparents and should be protected at all costs.

Our view is based upon experiences recounted in correspondence we have received since the beginning of our work in 1976. Since that time we have heard from over 38,000 people -- 19,000 of whom were birthparents.

We feel that Senate Bill 2299 is certainly a positive step in the process of making adoption a more humane process. We are hopeful that this bill will be passed into law and offer our support in this important work. If we can be of assistance to you please do not hesitate to advise.

Sincerely yours,
Susan L. Fogleson
Susan L. Fogleson
Legislative Reporter

7000 Jackson
Kansas City, MO 64132

Phone: (202) 429-3744

National Headquarters: 595 Central Ave, Dover, N.H. 03820

Devoted to Humanizing Adoption

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

MAR 15 1984

The Honorable Jeremiah Denton
United States Senate
Washington, D.C. 20510

Dear Senator Denton:

Thank you for your letter regarding fraudulent adoption practices. We realize that there are problems with the regulation of independent adoptions and the Department will continue to assist the States in strengthening their adoption laws.

As you stated in your letter, the Department is authorized under the Adoption Opportunities Act (Title II of P.L. 95-266) to give technical assistance to the States for the improvement of their adoption laws. Section 204 of the Adoption Opportunities Act required a study of unlicensed adoption placements. This study, conducted by the Child Welfare League of America, was transmitted to the Congress as required in June 1979 and has been widely disseminated. The findings and recommendations of the study include suggested legal and agency changes to reduce the problems surrounding independent adoptions. A copy of Adoptions Without Agencies, A Study of Independent Adoptions and a summary are enclosed.

We also continue to work closely with the Association of Administrators of the Interstate Compact for the Placement of Children (ICPC) and have provided funds to the American Public Welfare Association continuously since 1972 to support and maintain the operation of the Interstate Compact. The ICPC, a multilateral law enacted by nearly all States, grants States the requisite jurisdiction to resolve a number of specific problems encountered in interstate placement. In addition, we funded the development of the adoption guidelines for the ICPC. Copies of the Intercountry Adoption Guidelines and National Directory of Intercountry Adoption Service Resources, which were published and widely disseminated in 1980, are enclosed.

The criminal prosecution of individuals who operate illegal adoption rings is a matter of State law. Technical assistance in law enforcement matters is under the purview of the Department of Justice; however, upon a request by the Justice Department, we would certainly cooperate fully.

We will be pleased to continue discussions with you on how we can best work with the States to assist them with the issue of adoption placements.

Sincerely,

Margaret M. Heckler

Margaret M. Heckler
Secretary

ASSOCIATION OF ADMINISTRATORS
OF THE INTERSTATE COMPACT
ON THE PLACEMENT OF CHILDREN
OF THE AMERICAN PUBLIC WELFARE ASSOCIATION

1125 FIFTEENTH STREET, N.W. WASHINGTON, D.C. 20005

Suite 300
Telephone: (202) 293-7550

March 23, 1984

Senator Robert J. Dole
Chairman
Subcommittee on Courts
Committee on the Judiciary
United States Senate
Senate Hart Office Building 327
Washington, D.C. 20510

Dear Chairman:

As legal consultant to the Association of Administrators of the Interstate Compact on the Placement of Children, I would like to congratulate you for your leadership in both introducing S. 2299 (The Anti-Fraudulent Adoption Practices Act of 1984), and holding hearings on fraudulent adoption practices. I appreciate the opportunity to comment on what I believe to be the most recent Discussion Draft of S. 2299 (which was obtained from Mr. Scott Morgan when I met with him on March 8th) and request that my comments be made a part of the hearing record of March 16, 1984.

The Problem

Adoption and placement of children for the purposes of adoption are provided for and regulated by state law. This is obviously the case for adoptive placements originating and completed within the United States; it is also true for international placememts into this country. Admission to the United States is governed by the procedures of the Immigration and Naturalization Service pursuant to federal law, but that provides only for entry and not for child placement or adoption.

Of course, many of the children available for adoption are placed locally. In consequence, the entire process is jurisdictionally within the control of a single state. Nevertheless, it is chronically the case that the number of adults seeking children for adoption exceeds the supply. This is especially true for healthy infants. As a result, interstate and intercountry adoptions are numerous.

Adoption serves two complementary but quite different needs: the desire of adult men and women for children, and the need of children who for a variety of reasons do not or will not have the care and protection of their natural parents. To safeguard the interests of both children and prospective adoptive parents, the process of preadoptive child search and placement should be a responsible and proper one. In most instances it is, but there are abuses.

A difficulty which the states often encounter in attempting to deal with adoptive placements is that their jurisdiction is territorially limited. This has led the states to adopt a variety of mechanisms. States require licensure for agencies which perform child care and placement services. Failure to conduct their activities in a responsible way subjects such agencies to the possibility of suspension or revocation of their licenses. Nonagency or "independent" placements generally are less regulated than the ones made by agencies, in those states where both are allowed. However, in some states, independent placements are unlawful.

While the details of the laws in the states vary widely, it is generally true that engaging in fraud or misrepresentation is a ground for calling a license into question. It also may be a ground for exposing the perpetrator to criminal penalty or civil action. However, a state prosecutorial agency or a private aggrieved party within the state will often encounter practical difficulties in trying to reach prospective defendant who is beyond the jurisdiction. Many of the incidents which come to light from time to time involve persons who make their offers of child placement services from afar and who purposely avoid physical presence or the maintenance of assets within the states where their victims are situated.

The Interstate Compact on the Placement of Children is law in 46 states. It is a means of assuring that home studies and other safeguarding procedures are employed for interstate placements before they are allowed lawfully to be made. In the process, many state child welfare agencies and others concerned in the making of responsible placements have learned much about the reputation and conduct of particular placers who operate from other jurisdictions. However, in many instances, it continues to be true that protection for the victims of fraudulent operations conducted from other jurisdictions is more difficult to obtain than for purely local transgressions. Usually, the greatest motivations for redress of fraud or for penalizing persons who have exacted unwarranted payments for the procuring of children comes from the locales where the victims live.

The bill seeks to preserve existing state regulatory and remedial laws. In addition, it would provide for the possibility of federal prosecutions and civil suits in instances where the state courts may presently be hampered by the limitations on their territorial jurisdiction.

Suggestions for Specific Provisions

I have been privileged to see successive drafts of this bill as the legislation was being developed. In an effort to refine the provisions, some concepts have been once or twice in and out of the bill. On the whole, the progress with the drafting has resulted in successive improvement of the product. Nevertheless, I believe that several specific suggestions are still in order.

1. On line 15 of Section 21 (a) the language ending with the words "document that is known" would be better in the active voice and should read "document that he or she knows." The unlawful conduct being described is knowledge by a specific person. The concept of "is known" suggests more general or widespread knowledge on the part of persons who may or may not be clearly identified by the present language.

2. The problem in Section 22 (c) is to exempt payments for services which are legitimate, especially in those states which recognize independent adoptions as a proper means of bringing children in need of adoptive homes and prospective adoptive parents together. The use of the concept of "bona fide" and of

the phrase "finder's fee" are helpful in establishing this exception but limiting it to appropriate compensation for genuine services while providing some means of making interstate baby selling an actionable offense.

3. The offense described in Section 23 (a) could, in some fact situations, also constitute kidnapping. Whether juries would be inclined to convict of that much more serious crime is an open question that might depend on the precise facts of a particular case. However, it is not uncommon to have a set of facts which can support a prosecution under two or more separate provisions of the Criminal Code and where a U. S. Attorney has a choice as to what kind of an indictment to seek. Further, and perhaps of greatest importance, this provision could get at many abuses which should be grounds of prosecution but which would not support a prosecution for kidnapping.

4. The definition of "State" contained in Section 24 (2) covers part of an important problem. Persons in the armed forces and civilians on military bases abroad do seek to adopt children. They are vulnerable to victimization by unscrupulous individuals or agencies offering adoption services. When these persons are foreign nationals and do not come onto the American base, there may be nothing that federal law can do to reach them. However, American agencies and individuals operating from the United States or on the installations are sometimes involved. By defining "State" to include military installations abroad, this bill can be helpful. However, the definition would do even more good if it were broadened to include military installations within the United States and Indian Reservations. In some instances, neither the criminal laws nor the family laws of the state apply to such enclaves. Fraud in connection with the making available of Indian children for adoption by non Indians off the reservations is a significant problem. Also, protection of military personnel and civilians stationed on military installations within the United States is desirable. To achieve this broader coverage, I suggest that the definition of "State" include "any area within or outside the United States over which the United States has exclusive or concurrent legislative jurisdiction."

5. An earlier draft of the bill included both other state laws and interstate compacts. It is preferable to return to this earlier version of the Section. It is desirable to make clear that nothing in this bill limits the applicability of state licensing or other regulatory laws relating to child placement or adoption, nor is it the intent to diminish the applicability of any penalties available under state law to deal with subjects covered by the bill, including state remedies for fraud. The bill seeks to add federal remedies for certain transgressions.

Thank you again, Mr. Chairman, for the opportunity to offer comments on the legislation and to assist in making the final product as useful as possible in helping the states to cope with inter-jurisdictional aspects of abuses connected with adoption and preadoptive placements.

Very truly yours,

Mitchell Wendell

Mitchell Wendell,
L.L.B. Ph.D.
Legal Consultant

NATIONAL COMMITTEE FOR ADOPTION
SUITE 326
1346 CONNECTICUT AVENUE, N.W.
WASHINGTON, D. C. 20036
202 - 463-7559

March 23, 1984

Office of Sen. Robert Dole (R-KS)
Hart Senate Office Building
Washington, D. C.

Dear Senator:

On behalf of the National Committee For Adoption, I am pleased to endorse the legislation introduced by you and Sen. Bentsen. It would go a long way toward stopping fraudulent practices in adoption and thereby strengthening the institution of adoption in our society.

We realize that you have received a substantial amount of data in the course of your investigations and hearings and we hope that you will make that information, especially the series that appeared in the Ft. Worth Star-Telegram, part of the hearing record.

In addition, we would like to suggest that you include in the record the attached information, a series of investigative reports by Margaret N. O'Shea which appeared in the Columbia, S.C., newspaper, The State. We believe this should be part of the hearing record because of South Carolina's role in interstate adoption traffic. Your legislation aims at stopping fraud in international adoptions and the Star-Telegram stories vividly portray what can happen. So also, your bill would help stop fraud in interstate adoptions, and the series in The State points up these problems and concerns:

- a ratio of private placements 300% higher than most states;
- women being shipped to South Carolina to deliver babies for clients who live outside South Carolina;
- the Interstate Compact on the Placement of Children is being widely ignored;
- "unknown" fathers are handled in ways that are more "reasonable" than having them waive their rights in writing;
- women are counseled to hide from biological fathers--a dangerous recommendation that ended in an "unknown" father getting custody of his child in 1982;
- non-returnable "application" fees of $1,500;

- networks involving agencies with licenses under suspension or investigation in at least six states;
- home studies are routinely waived, so that couples' competence to parent an adopted child is not objectively assessed;
- hospital bills for babies with handicapping conditions are not fully paid;
- adopting couples are charged more for the room and board of pregnant women if they have more financial resources;
- women from other states (and even from Mexico) are being housed in what are essentially unlicensed maternity homes;
- women are induced to travel with the promise, not always kept, that all their expenses will be promptly paid;
- adoptive parents and lawyers pressure women to move to other jurisdictions or States where Judges are "friendlier";
- couples are being defrauded by people attempting to "sell" the same baby to more than one couple simultaneously;
- women are promised sums as large as $3,000, above expenses, if they have and place a healthy baby;
- in some states, "selling a baby" is only a misdemeanor;
- in South Carolina, there's no provision in current law making a consent to adoption under fraudulent circumstances illegal;
- changes made in South Carolina's laws in 1963, following the last exposure of black market baby-selling, have proved ineffective.

These eighteen problems, and more, are discussed in the series which was published by The State. Your legislation will help focus attention on and address these problems and concerns.

Thank you for your leadership on this issue.

Sincerely,

William L. Pierce, Ph.D.
President

NATIONAL COMMITTEE FOR ADOPTION
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INTERNATIONAL ADOPTION DATA

Country or Region of Birth	Fiscal 1976 Abroad*	Here**	Fiscal 1977 Abroad	Here	Fiscal 1978 Abroad	Here	Fiscal 1979 Abroad	Here	Fiscal 1980 Abroad	Here	Fiscal 1981 Abroad	Here
All Countries	1,409	5,143	1,525	4,968	1,326	3,989	1,195	3,669	997	4,142	939	3,929
Korea	475	3,384	564	3,294	432	2,613	302	2,104	263	2,420	210	2,234
Colombia	35	519	43	532	31	568	22	604	27	626	38	590
India	3	19	4	81	7	142	17	214	23	296	15	299
Mexico	112	15	138	18	133	19	126	13	124	20	106	10

Percentage of adoptions abroad

Mexico -- 89 percent
Colombia -- 5 percent
India -- 17.5 percent
Korea -- 12 percent

Total adoptions, 1976 - 1981

Mexico -- 834
Colombia -- 3,635
India -- 1,120
Korea -- 18,295
Total, All Countries -- 33,231
Percentage from four major countries -- 72 percent

*Abroad--Children adopted abroad and then brought into the U.S.
**Here--Children admitted to the U.S. for purposes of adoption here

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Source: Immigration and Naturalization Service, Statistical Analysis Branch, "Immigrant Orphans Admitted to the United States by Country or Region of Birth."

For more information, contact William L. Pierce, 202-463-7559

NEWSPAPER ARTICLES

[From the State (Columbia, SC), Feb. 26, 1984]

SOUTH CAROLINA IS THE NATION'S BABY-BUYING SUPERMARKET

(By Margaret N. O'Shea)

(This five-part series of articles will examine South Carolina's role in interstate adoption traffic, the sale of children, the fate of "defective merchandise," the competition for babies, abuses of the system, and highly varied views of public versus private adoption. Research included examination of more than 50,000 court records in 34 counties and interviews with more than 120 persons involved in adoption.)

After the baby was born, his mother lay panting on the delivery table, her feet still in the birthing stirrups and her body bathed in sweat. That was when the doctor leaned over and offered to take the child off her hands.

The obstetrician said she knew "a delightful couple" with no children who would "love to adopt your baby," and she knew a lawyer who could "handle everything."

The unwed mother refused the offer, and she recounted it later in horror to social workers she had come to know during weeks of counseling at the South Carolina Children's Bureau. The young woman was appalled to think she had been expected to give her child to someone she had never met before in her life.

The obstetrician who solicited her baby had been summoned to the delivery room only because her own doctor could not come.

But the delivery-room incident at McLeod Regional Medical Center in Florence did not end the competition for that one woman's baby.

Home from the hospital, the young mother received several anonymous telephone calls soliciting the baby she had already relinquished to the Children's Bureau. Across town, the baby's father received calls urging him to withhold his consent to a bureau placement so the child could be privately adopted.

Meanwhile, the baby was already living with an adoptive family. Their joy was dampened, however, by telephone calls from persons who said they knew the final papers had not been signed, and they wanted the baby.

Files at the Children's Bureau and county Departments of Social Services are full of similar stories that illustrate the mad scramble for healthy white babies in an open adoption market, where demand is greater than supply.

The Dillon County DSS receives an apologetic telephone call from the mother of a client, who has been planning to release a baby for adoption through DSS. The woman says her daughter has had a miscarriage.

Knowing miscarriages do not occur at full term, the suspicious social worker probes and learns that the client bore twins. She gave them to the obstetrician to be adopted privately so she could get her medical bills paid.

A nurse at Richland Memorial follows a discharged maternity patient out to the parking lot, where she says it's a mistake to keep the baby. She offers to put the mother in touch with "a good lawyer who'll be happy to place the child."

A young woman is wheeled from the recovery area to her room on the maternity ward at Lexington County Hospital. The bedside telephone is already ringing. Somebody wants to adopt her baby.

The rare ambivalent patient—or the one who has waited too long to seek an abortion at the Greenville Women's Clinic—will be referred to one of several local lawyers. The clinic is one of the few in North or South Carolina that has an open policy for adoption referrals.

Such scenarios are not uncommon in South Carolina. The state has become a national clearinghouse for babies—one of the last hopes for childless couples from states with long waiting lists or more stringent adoption laws.

Under South Carolina law it is legally possible for an out-of-state couple to fly into this state one morning and leave that afternoon with a baby and a final adoption decree, even if they have openly bought the child.

State law requires waiting periods and home studies, but they can be waived by a family court judge. Financial disclosures are not required, and there are no specific guidelines to what a couple can pay.

Such loopholes in state adoption laws have encouraged interstate baby traffic, frequently involving the transportation of pregnant women from other states to South Carolina to give birth. Their babies are adopted here by out-of-state couples, who can pay as much as $22,000 to obtain a child.

In most parts of the state, court records show adoptions are fairly evenly spread among local lawyers, although the range of legal fees is vast—anywhere from $300 to $12,000 before peripheral costs, proper or padded, are added in.

Adoptions have been traditionally divided into three categories—agency adoptions, the "gray market" and the "black market"—based largely on cost.

At the lower end of the spectrum are state agencies, which charge adoptive parents little or nothing for their services beyond a local legal fee that is usually $500 or less.

"Gray market" adoptions are private placements that may cost over $1,000, and include the payment of medical expenses for the birth mother.

"Black market" adoptions are generally considered to be those that carry exorbitant legal fees—$5,000, $10,000 and $12,000 are frequently quoted prices—as well as a long list of expenses that imply the use of financial incentives, if not outright child-buying, to obtain children.

Those distinctions are blurred in South Carolina, because under the state's lenient laws, almost anything goes—including child-buying. And adoption agencies are no longer confined to state, charitable or religious organizations. They now include some which charge over $10,000.

Despite its cost, the private adoption market is thriving. Public agencies, meanwhile, have long waiting lists because of the dwindling supply of babies given to them to place. Abortion, contraceptives and greater acceptance of single parenting have affected the baby supply. The shortage also is complicated by demographics—the adopting pool is glutted with postwar baby-boom adults.

But money is often the deciding factor. Funds are readily available in the private market to cover a wide array of pregnancy-related expenses—including free vacations after giving birth—while budget cutbacks in the public sector mean most agencies can't foot even essential bills.

There is a sharp contrast between the two systems' criteria for making adoptive placements, however. In the private markets, the ability to pay comes first, and every other qualification for parenthood is left to the courts to determine.

Social workers in agency adoptions have a longer list of criteria for parenthood, and the only financial consideration is whether the family can support a child.

Agencies also provide counseling before they will accept birth parents' consent to adoption, and they allow mothers who want to see their babies to do so before they decide to keep them or let go.

Whether either system is good is bad is a matter of widely divergent opinion, but private adoptions clearly have the statistical upper hand in South Carolina. For every baby adopted through an agency here, six are adopted through lawyers.

Some of the nation's top adoption lawyers are sending clients to South Carolina for babies, and at least two—Stanley Michaelman of New York and David K. Leavitt of Beverly Hills, Calif.—are sending pregnant women here to deliver.

A third, Seymour Kurtz of Chicago and Atlanta, is expected to spend $25,000 or more this year on Yellow Page advertising alone to recruit South Carolinians for his adoption agency. The advertising, although directed to pregnant women, also serves to attract potential adoptive parents.

Evidence suggests that scores of other out-of-state lawyers are channeling clients into South Carolina.

Humanitarians as well as profiteers are involved in private adoption, which can be lucrative. Its proliferation has contributed to heavy competition for healthy, white infants. Unwed mothers are solicited in abortion clinics, doctors' offices, health departments, hospitals, flea markets, maternity shops, parking lots and grocery checkout lines.

Some South Carolina newspapers publish advertisements for babies to be adopted, and occasionally for toddlers and older children.

The demand for children so far exceeds the number available that excessive adoption charges are sometimes collected, either by lawyers in other states who channel babies and adoptive couples into South Carolina, or by lawyers who handle the legal work in South Carolina courts. In some cases, women have been paid for their babies, but state laws does not prohibit the sale of a child.

The secrecy surrounding adoptions sometimes masks abuses of law—"quickie" adoptions are available; it is possible to adopt a child without ever undergoing a home study, birth mothers are frequently asked to sign illegal and coercive adoption consents for unborn children; fathers' legal rights are sometimes ignored; and the state Children's Bureau is seldom informed, although state law requires such a notice for any child under six months old.

Most interstate adoptions accomplished here are potentially illegal not because any state laws were violated, but because the Interstate Compact on Children was ignored when the children were taken across state lines.

[From the State (Columbia, SC), Feb. 26, 1984]

How To Adopt

AGENCY

Step One: Adoptive parents apply to a state or charitable agency, and are placed on a waiting list.

Step Two: Potential parents attend training courses on adoption.

Step Three: After an extensive selection process, a couple is assigned and receives a child.

Elapsed Time: 4 to 6 Years.

Step Four: The initial adoption petition is filed in court, and a legal guardian is selected to represent the child's interests.

Step Five: Parents receive an interlocutory decree in court that gives them legal custody of the child.

Step Six: Several weeks later, there is a post-placement home study to see how the child and parents are adjusting. Additional counseling is available when needed.

Step Seven: Parents go back to court with the child and are interviewed by the judge, who then issues the final adoption decree.

Elapsed Time: 9 Months to 1 Year.

Minimum Total Elapsed Time: 4 Years and 9 months.

PRIVATE ADOPTION

Step One: Adoptive parents contact an attorney who agrees to handle an adoption if a child is located. The parents then set out to locate a child, usually through newspaper advertisements or word of mouth.

Step Two: A pregnant mother tentatively agrees to let the adoptive parents have her baby. Through the attorney, the parents pay the birth mother's expenses.

Step Three: The parents receive the baby.

Elapsed Time: 3 Weeks to 3 Months.

Step Four: An adoption petition is filed and an interlocutory decree is granted.

Step Five: A guardian may or may not be appointed; a home study may or may not be made.

Step Six: A judge issues a final adoption decree.

Elapsed Time: 1 Day to 1 Year.

Minimum Total Time Elapsed: 3 Weeks and 1 Day.

[From the State (Columbia, SC), Feb. 26, 1984]

South Carolina's Booming Baby Business

SOUTH CAROLINA'S LENIENT LAWS HAVE MADE IT THE "BIRTHING CAPITAL" FOR THE NATION'S QUICKIE ADOPTION SERVICES

(By Margaret N. O'Shea)

Other girls in the Asheville senior class were envious—their graduation gifts paled beside an extended trip to France.

They didn't know "France" was just 70 miles away, across the South Carolina line in Spartanburg, and the trip was carefully timed to keep secret the birth of an illegitimate child.

It also sidestepped a residency requirement in North Carolina law that would have prohibited the adoption of the baby by the California couple the mother and her family had chosen from a set of general descriptions.

On this occasion, South Carolina law also provided another "escape valve" not often needed by Beverly Hills adoption lawyer David Keene Leavitt, who says most of his 200–300 adoptions per year can be handled in California. But the 1981 incident opened a channel for "problem-father" cases, and Leavitt has used it several times since then.

Leavitt sends women to give birth in South Carolina—usually in Spartanburg and occasionally in Columbia—when it's inconvenient or distasteful to name the father of the child. California courts are "pretty sticky" about father's rights, and it's hard to get by with saying a father is unknown, Leavitt says—even if the father doesn't know there is a child, and even if the mother doesn't care to tell him.

In South Carolina, birth mothers seldom go to court in an adoption proceeding, and if a lawyer produces a signed statement that the father of the child is unknown, it's usually accepted.

"There's nothing magical about state lines. South Carolina is a special State only because it takes a reasonable attitude toward the biological father," Leavitt said. "If you name him, he has to be served notice of the adoption petition, but if you don't name him, he can be served by publication."

That means a notice of the pending adoption can be published in the legal advertisements of newspaper—in these cases, preferably one the child's father will never see.

It does not mean that "you don't have to name the father in South Carolina," as Leavitt says, or that a father's consent to adoption is not required here, as some out-of-state lawyers contend—only that the requirement is easily avoided.

The procedure can backfire, as it did in one of Leavitt's cases in Spartanburg in 1982, when the "unknown" father showed up and demanded custody of the baby surrendered for adoption by his common law wife. He won his case in the circuit court.

Technically, his parental rights could have been terminated under South Carolina law because he had not supported the mother during her pregnancy, but Family Court Judge Clyde Laney questioned how he could have, since she left him in Florida, then purposely hid from him in Spartanburg on Leavitt's advice.

The case brought to light some details about interstate adoption arrangements in areas like Spartanburg—the prospective adoptive parents were pledged to pay, had the adoption gone through, close to $10,000 for legal fees in two states and also expenses for the birth mother. They included her transportation to Spartanburg from California, her rent and other living expenses in Spartanburg, her medical expenses and other incidentals.

Among the incidentals, a Spartanburg woman—who has recently changed her fee to a flat $200 per case—was paid $5 an hour for various services to pregnant women involved in adoption proceedings.

The same general financial arrangements occur throughout South Carolina, with various touches of local style. Women brought to Charleston to give birth may stay in apartments or private homes where owners receive monthly compensation based on the financial capacity of the potential adoptive parents.

Women brought to Sumter to give birth usually stay at two local motels, according to reports filed with the Department of Social Services and South Carolina Children's Bureau. The motel addresses are given at Tuomey Hospital when the women give birth there.

Runaways and other teenagers who give birth in Myrtle Beach can wind up in quarters that run the gamut of everything the Grand Strand has to offer. One lawyer in Myrtle Beach owns apartments sometimes used for transient mothers.

Some lawyers cover expenses from a flat rate, and others keep a precise record, although state law does not require an accounting of adoption costs. Nor do most judges ask for one, even in cases where there is probable cause to suspect large sums have been paid, or when it is obvious that both in-state and out-of-state legal firms are involved.

The conduits from other states have multiplied in recent years with the tightening of adoption laws. Nationally known adoption lawyers like Leavitt, Stanley Michaelman of New York and Seymour Kurtz of Chicago and Atlanta, have all developed ties in South Carolina. So have scores of other lawyers around the country.

Some of them send clients here to adopt babies, and others funnel all the principal parties to adoption into the state, where their mutual concerns can be met more simply than at home.

The secrecy surrounding adoptions in South Carolina makes it hard to trace interstate patterns. Leavitt associations appear most often in Spartanburg where several lawyers have handled the legal work locally. Michaelman adoptions have occurred in at least a dozen South Carolina counties, channeled through a single Charleston lawyer.

Kurtz, who runs an Atlanta-based agency, has placed babies in several South Carolina counties, but he says he prefers to have them born in Georgia, where they await delivery in private homes.

Major feeds into Sumter appear to come from Florida and New York, while those into Myrtle Beach, Columbia, and several other cities appear to come from New York, Maryland, Connecticut, Massachusetts, Rhode Island, Virginia and Michigan.

Although Leavitt has zeroed in on South Carolina courts' leniency toward fathers' rights, what appeals to most out-of-state lawyers is that non-resident adoptions are simply and easily accomplished here. While state law provides that extraordinary circumstances must be present, it is unusual for any adoption petition to be denied, a survey of court records shows.

At least 14 states prohibit non-resident adoption, and at least 18 states either prohibit non-agency adoption or place restrictions on private placements. In those states, people who are rejected by agencies or placed on long waiting lists may look toward states like South Carolina for relief.

Most lawyers who handle private adoptions agree that once a trickle is established, a flood is likely to come, because the demand for babies is so great nationwide.

The flood has struck South Carolina. Nobody knows how many babies leave the state every year in the arms of adoptive parents. Vital Records at the state Department of Health and Environmental Control keeps statistics on non-resident adoption, but not broken into categories that show the children's ages, whether they were placed by agencies or by private entities, and whether they have been adopted by relatives or strangers. (Step-parents' adopting children from a spouse's prior marriage account for a large percentage of adoptions.)

DHEC keeps tallies in all those categories, too, but without applying the residency variable.

Without knowing how all the variables interact, it's hard to say what DHEC's numbers really mean. What they do say with resounding clarity, however, is that adoption is a highly popular way to have children, especially healthy, white children.

In 1982, the last year for which DHEC statistics were available, 1,826 children were adopted in South Carolina; 259 of them were under a year old when the adoptions were finalized, and another 473 were between one and four. That year 450 children were adopted by non-residents, and 394 of the youngsters were white.

Public and private agencies placed only 390 of those 1,826 children.

Leavitt's experience in South Carolina provides some insights into how the demand for children balloons private adoption statistics.

In the process of using South Carolina as a birthing state, Leavitt has picked up some new adoptive parents as clients as well. When he routed the young Asheville girl to Spartanburg, he needed a local attorney to handle legalities in South Carolina, and he chose a Spartanburg woman who was listed in the family law section of the American Bar Association directory.

Since then, a partner in her firm had adopted twins through Leavitt.

Several South Carolina families have adopted California babies in California through the cross-country channel, and Leavitt has handled adoptions of South Carolina babies. One, born in Beaufort, is being adopted by a California-based tennis pro who mentioned at a Hilton Head tournament that he and his wife were interested in adopting a baby. By tournament's end they had been introduced to the unwed mother who would agree to their having her child, Leavitt said.

Leavitt charges a flat $2,000 for an adoption, no matter how easy or how complicated, he said, and he resents any implication that he's involved in a black market for infants—"There is no auction or commercial transaction going on here," he said.

[From the State (Columbia, SC), Feb. 26, 1984]

Meet Seymour Kurtz, He'll Find You a Baby in the Name of God and $14,000

(By Margaret N. O'Shea)

The clerical work involved in adoption can be some pretty expensive bookkeeping—God's chosen families pay $14,000 to Friends of Children to adopt a child, and God does not choose families who don't have the cash.

The $14,000 is just what the agency collects. It does not include additional costs that must be borne by the adoptive family—lawyers' fees in their home states, the costs of home studies in states like South Carolina that do not accept those done by Friends of Children, and any other costs associated with meeting legal requirements to bring an adopted child home from Georgia, where Friends of Children has offices in Atlanta and Columbia.

The agency's proximity to South Carolina has made Friends of Children a power to be reckoned with in the field of adoption. Families in Columbia, Charleston and Beaufort have adopted babies through the Georgia agency, and at least five from Hilton Head Island alone are beginning the process.

They pay a $1,500 application fee, which guarantees nothing and is usually not returnable. The remaining $12,500 is due when they receive a child.

The impact of such costs is relative. According to literature from Friends of Children, annual incomes of the 24 families who applied for babies in September 1985 ranged from $17,000 to $500,000. Agency fees and other costs would mean a full year's income to the family at the bottom of the scale but only a slight inconvenience, if that, to the five families on the list with incomes above $100,000.

Kurtz says Friends of Children and his Chicago agency, Easter House, together placed more than 200 children in 1983—a volume that translates to more than $2.8 million gross income from adoptions. As late as 1980, Kurtz also held controlling interest in Casa del Sur, a Mexican adoption agency; Stichting Susu, a mail-drop referral service in the Netherlands; Suku, a for-profit paperwork processing corporation in Delaware; and Tzyril, another referral entity in Chicago.

Applications to Easter House would be routed through Stichting Susu, which was described as an organization with affiliates around the world for the location of adoptable babies. Stichting Susu connected some adoptive families with Casa del Sur for Mexican adoptions. The papers, including translations and negotiations with immigration offices, would be handled by Suku Corp., and the adoptive home study would be handled for a fee by Easter House. The function of Tzyril was to refer applicants to Stichting Susu or Casa del Sur.

The complicated mix of profit and non-profit corporations, with their loans, referrals and transfers of money, created a confusing financial web.

Kurtz says today those other corporations are not operational, and he is concentrating his energies on Easter House and Friends of Children.

The babies come primarily from unwed mothers—"little heroines," Kurtz calls them, who have the dignity and courage to go through with a pregnancy, then assure "the best" for their babies.

(Told about a South Carolina judge who considers those same mothers "a bunch of welfare bimbos" who get more consideration for their rights than they deserve, Kurtz remarked, "It's a good thing he wasn't a judge 2,000 years ago when Joseph led the burro to Bethlehem.")

For an unwed mother anywhere in South Carolina, the initial link with Friends of Children is only as far away as a telephone. The agency pays for call-forwarding service from most South Carolina cities, which allows callers to dial a local number without cost. Advertisements in the Yellow Pages alert pregnant women to services available through Friends of Children:

Beginning "Dear Mother-in-Need," the large ad in new directories in Columbia is a letter from Mary Ann Zahner, assistant executive director of Friends of Children.

It says, "I am a caseworker who works with girls who have similar problems as yours. Believe me, I understand the hurt and pain you must be going through. I want you to know that you are not alone. I would like to help you let your baby live and grow into a happy, healthy, secure child. Before you consider abortion, think about placing your child in a home with long-waiting couples who can give him love, security and a good future.

"I will help you find a doctor and hospital. If you have no place to stay, I can help you find a home with nice, family-type people. I will take you to your doctor's appointments, and if your funds are limited, we will pay for your prescriptions, medical and hospital fees, as well as your housing expenses. Also, I will take you to the hospital, and even go into the delivery room with you—if you like.

"I will help you make the right decision—if you will let me. . . . I know that you already have a bond of love for the child you carry. I would like to help you give your child a start in life. . . ."

Part of the money the adoptive family pays handles the cost of such advertising and services, although unwed mothers who happen to have maternity benefits are encouraged to use their own medical insurance, and some spend only the last days of their pregnancy in Georgia.

On the other hand, some mothers decide not to place their babies for adoption either, and the financial trade-offs even out, according to Seymour J. Kurtz, executive director of Friends of Children, who claims he has lost money on adoptions, and is involved in them only because he's a sucker for making people happy.

Kurtz's assessment of himself varies widely from his national reputation, as does his estimate of the financial rewards in adoption.

Kurtz was reared an Orthodox Jew and educated by Jesuits at Loyola. Both the Jewish and the Catholic traditions hold that it is a moral obligation not only to preserve life but also to reproduce it. And Friends of Children advertising stresses adoption "so that her child may live."

But Kurtz's position is, "It is not so much that we are opposed to abortion: We are against a pregnant woman being forced to abort her expected child only because she has no decent place to live, no adequate clothing, food, counseling, medical, laboratory and hospital facilities and, yes, care and concern."

And, he says, "There are several kinds of faith. One is the kind you wear on your sleeve and use to sell insurance to other members of your congregation."

He views himself as a victim of malicious media and jealous state agencies, of hatchet-jobs and conspiracies.

Kurtz is one of the few nationally recognized adoption moguls who operates through an agency framework—the others are lawyers who specialize in expensive adoptions, and their charges run about even with Friends of Children. In some circles there is an air of respectability attached to agencies, contrasted with an air of furtiveness about other types of private adoptions.

But the agency approach requires licenses for child placement in most states, and Kurtz has run into extensive difficulties getting licensed. That means some families have problems getting their final adoption decrees in their home states, and in some cases are not allowed to bring babies home from Georgia, a difficulty that adds foster-care charges to the cost of adoption.

Despite heavy criticism from other quarters, most people who know Kurtz personally describe him as a charming man of deep principle and conviction. And most couples who have adopted through his agencies do not complain. They have babies.

[From the State (Columbia, SC), Feb. 26, 1984]

South Carolina's Booming Baby Business

THE RELATIONSHIP BETWEEN THE FRIENDS OF CHILDREN AND THE SOUTH CAROLINA CHILDREN'S BUREAU IS FAR FROM FRIENDLY—THE TWO MAKE THEIR CASE IN A STORM OF CORRESPONDENCE AND IN PENDING LEGAL PROCEEDINGS

(By Margaret N. O'Shea)

When 1984 telephone directories were issued in Columbia, the head of the South Carolina Children's Bureau saw red in the Yellow Pages—an advertisement 30 inches square for Friends of Children, an Atlanta-based adoption agency that has been sparring with the bureau for the past two years.

The black-bordered ad, which costs an estimated $9,000 a year for the Columbia directories alone, is only one of many. Friends of Children advertises in the Yellow Pages in several states as well as in the international edition of the Chicago Tribune, which circulates primarily in Europe.

The ad that angered Children's Bureau Director Frank Lewis is in the form of an open letter to "mothers-in-need," and is supplemented by a smaller one-column advertisement above in the regular Yellow Page listings offering "adoption of children to families in Georiga and throughout the U.S.A."

Lewis said he was perturbed not only by the contrast between his state agency's one-line listing and the attention-grabbing ad, but also by the notation at the bottom of the advertisement: "Friends of Children, Inc. (Licensed Adoption Agency)." His reaction was to report the ad to the state Consumer Affairs Commission, which includes investigation of fraud among its services.

Friends of Children is licensed in Georgia, but not in South Carolina. Georgia authorities refused to renew the agency's license there in 1981, but state courts have ruled that such licenses remain in effect until revoked. Since licensure regulations are undergoing revision, revocation has not been attempted.

Meanwhile, in South Carolina, licensure proceedings are dragging along, and last November Stanley Kohn, legal counsel for the state Department of Social Services, notified Friends of Children:

"I have been receiving copies of your correspondence with Mr. Francis E. Lewis regarding your agency. I do not find your agency to be licensed as a child-placing agency according to the laws and regulations of this state. Thus, it follows that all of those things you have done and that are proposed to be done with regard to placing a child for adoption with a family in this state are, in fact, unlawful."

DSS and the Children's Bureau have enforced strict compliance with all their regulations in this case because Friends of Children is operated by lawyer Seymour Kurtz of Chicago and Atlanta. Kurtz is nationally known for his adoption practice, and his fees are high enough to cause critics to say he sells children.

Kurtz has had difficulty with Illinois licensure for Easter House, his Chicago agency, in the wake of adverse publicity that began in 1976 when the Chicago Sun-Times published an investigative series, "Babies for Sale."

Those articles—which said Kurtz jacked up costs of adoption through an intricate system of related international corporations he controlled—were followed by Kurtz's inclusion in two books. "Baby Selling" by free-lance journalist Nancy Baker, and "The Baby Brokers" by New York reporter Lynne McTaggart.

The Illinois Department of Children and Family Services has been trying for two years to revoke the Easter House license in Chicago, and Kurtz is fighting the revocation. His Easter House operations also face lawsuits in New Jersey, Michigan, Indiana and Illinois for improper placement of children, and the state of Florida has attempted unsuccessfully to prevent Friends of Children from placing babies in Florida.

According to an in-house memorandum at the Florida Children, Youth and Families Program Office in the Department of Health and Rehabilitation Services, Friends of Children has applied for licenses in all the Southeastern states and in several Midwest states, all of whom have concern regarding the ethical practices of his agency.

"However," the memorandum states, "none of the states have been able to prove that Friends of Children has violated the law. If Florida is able to prove Friends of Children is operating illegally in our state, it will provide a basis on which many other states can deny this agency a license to operate."

Such communiques are evidence in Kurtz's opinion that he is the victim of a vast interstate public-agency conspiracy to clamp down on private adoptions, particularly his. The biggest difference between Kurtz's adoption business and those handled on a large scale by other lawyers around the country is that he operates out of agencies, not just a law office.

The allegation that Kurtz sells babies has been based largely on his adoption fees, which have risen at Friends of Children to $14,000, triple the Easter House charges criticized by the Chicago newspapers as excessive in 1976, and double the charges questioned by the Illinois Department of Children and Family Services in 1981. The $14,000 does not include legal fees and any other expenses to meet individual state requirements for an adoption.

Kurtz first sought South Carolina licensure around 1976, when he began organizing the Adoption Foundation of the Americas in Greenville with the assistance of local lawyer Lehman Moseley. Moseley says he and Kurtz were introduced about 25 years ago by Circuit Judge Frank Eppes, when Eppes was in the Legislature, Eppes met the Chicago lawyer at a legal convention.

The Adoption Foundation of the Americas never materialized, partly because Kurtz was heavily involved in Internal Revenue Service audits of his adoption enterprises, including operations in the Netherlands and Mexico. He was also tussling with the Illinois license authorities.

Several Greenville-area citizens, who initially agreed to serve on the foundation's board of directors, also changed their minds after they were contacted by a retired social worker who had heard of Kurtz.

The latest licensure effort in South Carolina is tied to Friends of Children, which Kurtz said he hopes will eventually be licensed in all 50 states. It was an established agency in Georgia when Kurtz assumed control of it.

The biggest problem Friends of Children has encountered with other states is alleged violations of the Interstate Compact on Children.

The Children's Bureau administers the Compact in South Carolina, and director Lewis said personnel at Friends of Children have been "difficult, to say the least, when we have tried to enforce the compact with regard to babies they have placed with families in South Carolina. These families are all being led to believe that we are the 'big, bad agency' that is holding up their adoption proceedings, when the truth is the type of cooperation we are able to obtain from Friends of Children is the real problem."

Lewis is convinced that Friends of Children has made unwilling pawns out of adoptive families in its strategy to obtain a license to place children in South Carolina.

Several South Carolina families have had problems getting final adoption papers and—in some cases—getting the babies they were promised they could adopt because of differences of opinion about the legal requirements involved.

The biggest argument involves who will do home studies on South Carolina families who adopt Georgia-born babies through Friends of Children.

[From the State (Columbia, SC), Feb. 26, 1984]

LETTERS: LEWIS AND "FRIENDS"

Seymour Kurtz told "The State" that Friends of Children has "had from time to time misunderstandings" with the Children's Bureau, but "I do not think they have escalated to the point of conflict." Frank Lewis disagrees.

Differences over the conduct of a home study for one South Carolina couple, who are adopting a baby boy through Friends of Children, led to a long and testy spate of correspondence between Lewis and Mary Ann Zahner, assistant executive director of Friends of Children in Atlanta.

It began in September, when Lewis wrote Ms. Zahner:

"This is to notify you that I will not approve any placements made by your agency with South Carolina families unless the home study presented to me has been conducted by an agency licensed by the South Carolina Department of Social Services as a child-placing agency or otherwise authorized by South Carolina law for that purpose. The same stipulation applies to the agency designated to provide post-placement supervision."

Ms. Zahner asked in a return letter whether Lewis meant he would "not permit our Georgia infant to enter the state of South Carolina with his or her adopting mother or father, after the child has been lawfully placed with them under Georgia law, unless those parents also secure a home study from an agency licensed in South Carolina."

Lewis' reply was terse: "In reply to your letter of 10–18–83: you are correct."

In an Oct. 28 letter, Ms. Zahner said:

"Now, Mr. Lewis, we do not want to, and will not, violate the laws of South Carolina. We appreciate your willingness to guide us as to your laws and regulations.

"Since you are telling us, under color of the law of South Carolina what we may or may not do, please examine the following which represents what we want to do in South Carolina and tell us if we may or may not do these things under the law or regulations of South Carolina. . . ."

"a. We want to send one of our professional employees, a citizen and a resident of the state of Georgia, out of Georgia and into the state of South Carolina. Now, she will most likely drive, though it's possible that she might fly to go from Georgia into South Carolina. Because the professional who attempted to visit the M. family is named 'Sue,' we will henceforth, for the purpose of these questions, call such professional 'Sue.'

"Now, Mr. Lewis, I am sure you would not suggest that Sue would violate any of the laws or regulations of South Carolina at this point, would you?

"b. Now let me add some details, that might or might not cause you to refuse her presence in South Carolina or cause you to abide her presence in your state. She would be carrying with her a pencil and paper for purposes of writing and she would also be carrying legal papers (a copy of the consent of the biological parent of Baby Boy X identifying Friends of Children as the adoption agency to whom such parent entrusted her child and a copy of legal documents necessary, under laws of the state of South Carolina, to be presented to the courts of your state regarding the care and custody of such child).

"Would you, at this point, suggest that Sue would have broken the laws or violated the regulations of your state?

"c. Assuming that you do not, yet, view Sue's conduct as criminal, let me add more detail of what Sue would do, if you would tolerate her presence and activity in your state: She would visit with the M. family and Baby Boy X; she would visually seem them; she would speak to all three of them (expecting verbal responses only from the Ms). She would give them or their attorney the above described papers of legal significance.

"So far, we are legal? Before you answer that, I think it only fair that you should be advised as to the type of dialogue that Sue would probably perpetrate: Sue would probably say 'hello,' identify herself, look at the beautiful baby, ask about the baby's health and adjustment and the impact of foster parenthood of the M. family, ask them if they have any questions, ask them about the medical care extended the child under the circumstances of this case, ask them how their friends and family have interrelated with them and the baby.

"Sue would also be available to respond to some of the usual questions that might be asked of her. Would Sue break the laws of your state if she were to do those things in South Carolina?"

Ms. Zahner went on to ask which specific statutes or regulations would be broken under the circumstances described, indicating Friends of Children had placed the child and felt responsible for him.

"Would you respect us if we abandoned our involvement just because you are also involved? You know, a child does not suffer by having two sets of grandparents. Why is it not possible that both of us, who care for our child participate in the concern for that child? Once we have provided one of your citizens with the custody of a baby, are we to be no longer respected, tolerated, considered?

"If what we propose to do is illegal, tell us so and why. If not, let my people come."

Lewis responded, "We have not meant to imply that the specifics of what your caseworker would do are wrong, but that the very fact that you continue to practice as an agency in South Carolina without a license is wrong.

"We are concerned that you have asked families to travel some distance to see a caseworker at a place other than the child's home. We are also concerned that the families were asked, in the alternative, to meet your caseworker at an airport. . . .

"One additional comment: the Children's Bureau is a professionally staffed and standards-based adoption agency. We are not grandparents. Your clients and ours have the right to expect that the professionals involved in facilitating their adoption will not unnecessarily intrude into their lives.

"Since the Children's Bureau, as the agency responsible for supervising, is doing that and reporting to you, it seems that the visits of your staff not only are contrary to South Carolina statute, but also are superfluous because the service is being provided."

Ms. Zahner thanked Lewis for "exonerating" the caseworker from Friends of Children, whose home study would proceed as planned.

Lewis responded:

"Your letter is disturbing. It takes comments and information that I provided by way of correction and presents them as sanction. I am not and have not at any time sanctioned the practice of your agency in South Carolina. If it comes to my attention that you continue to practice in South Carolina without a license, I will report that activity to the local solicitor and request that action be brought under the penalty section of our licensing statute.

"To be very specific, as interstate Compact Administrator, I will not grant approval of placements made by your agency to families who reside in South Carolina in instances where there is information that reveals that a person employed by your agency conducted a home study or any part of a home study within the state of South Carolina.

"I will not approve placements into this state unless you make arrangements with an agency authorized by South Carolina law to provide post-placement supervision."

[From the State (Columbia, SC), Feb. 27, 1984]

Adoption Umbilical

A NEW YORK LAWYER FEEDS OFF SOUTH CAROLINA'S EASY ADOPTION POLICIES WITH THE HELP OF HIS FAVORITE CONNECTION, CHARLESTON LAWYER THOMAS P. LOWNDES

(Second in a series)

(By Margaret N. O'Shea)

The floodgates were opened to a national adoption market in South Carolina in 1981, when a pregnant teenager got homesick in New York while waiting for her child to be born.

Her tearful insistence on coming home led to a profitable association between New York lawyer Stanley Michaelman and Charleston lawyer Thomas Pinckney Lowndes Jr.—an association that has bolstered the state's national reputation as an easy place to get a child.

Theirs is not the only liaison that feeds white adoption trade into South Carolina from other states, but it is obviously the strongest. In the past three years, statistics at South Carolina's Department of Vital Records show, a fourth of all infant adop-

tions in the state have occurred in Charleston County, as have a fifth of all adoptions of children of all ages.

Statistics for calendar 1983 have not yet been released, but increased adoptions in the Charleston County family courts indicate those percentages may have climbed even higher.

Lowndes is not solely responsible for those figures, but he has a definite impact on them.

Other interstate links to lawyers here don't touch the volume handled by Lowndes and Michaelman, despite the fact that their combined legal fees total $6,500 to $6,700 before any of the other extensive costs are added in.

In the most expensive of their cases, those costs include transportation to South Carolina for an out-of-state mother, whose living, maternity clothing add medical expenses will have to be covered while she is here and for the six weeks after she delivers.

If the mother is a minor, still in school, costs may include homebound education unless she attends public school as long as her doctor will let her. If she has other children who are not being placed for adoption, the costs may include their care as well.

Add hospital expenses for mother and child, various court costs, and the adoptive parents' own transportation and lodging when they receive the baby and when they return to South Carolina for a final adoption decree, and the costs for Lowndes/Michaelman adoption exceed $10,000 and sometimes $15,000.

The cost is no deterrent to the flourishing association between the two lawyers, nor does it necessarily mean that they are involved in child-selling. There is no evidence that any of the big money associated with Lowndes/Michaelman adoptions is passed on to mothers in direct payment for a child, although such black-market adoptions are not illegal in South Carolina anyway.

The type of adoptions Lowndes handles for Michaelman are generally considered "gray-market" adoptions—privately handled and expensive, but legal.

Lowndes now handles nearly 100 adoptions a year, more than half of them for Michaelman's clients, and Michaelman now routes pregnant women from other states to South Carolina to give birth—a practice that allows their babies to be adopted through lenient South Carolina courts. The attorney in those cases is Lowndes, who is grossing close to $200,000 a year on adoptions alone.

That estimate is based on Lowndes' report that he charges $1,500 for adoptions done in Charleston County and $1,700 when he has to drive elsewhere. In a statistical check of approximately 50,000 Family Court docket sheets in 34 counties, The State counted 89 Lowndes adoptions completed and in progress during 1983.

In the fall of 1983, Lowndes' firm had at least 42 adoptions pending court action—26 in Charleston County, counting one filed by his law partner, Thomas P. Lesesne III, who has since resigned from the South Carolina Bar; five in Dorchester County; four in Anderson County; twins in Florence County, and the rest scattered in Orangeburg, Sumter, Beaufort, Horry, Richland and Lexington counties.

During the year, Lowndes had also filed and completed 10 additional adoptions in Charleston County and completed the last of 36 filed the year before in four counties. He had "lost one" in Greenville, when the mother refused consent, and he had been approached by lawyers in New Jersey, Connecticut and California to handle cases in South Carolina for them.

Court records show that last year was Lowndes' busiest since he began handling adoptions 17 years ago, and his volume reflected a practice that has at least quadrupled since his association with Stanley Michaelman began.

Lowndes' acquaintances say the brisk business has not changed him. He still wears penny loafers and Khaki pants, and he doesn't style or spray his unruly brown hair. But Lowndes is aware that his extensive adoption practice and his tie to Michaelman, who is nationally known as a "baby broker," affect his reputation, and he is quick to assure inquirers, "I am not a werewolf. I don't grow fangs and howl at the moon at night." The comment is delivered with a wry impishness.

He is a municipal judge in Mount Pleasant as well as one of the busiest lawyers in the state, and his children are proudest that he's a volunteer firefighter. The only baby picture in the third-floor, walk-up office is one of his youngest son, the beginning of a new family in a second marriage.

Lowndes owns the office building on Vendue Range, which is a block from the ocean. The decor ranges from crowded and seedy on the lower floor to modestly tasteful in Lowndes' quarters above—what one potential client described later as "early unpretentious."

But the Lowndes seen in hospitals and courtrooms around the state has a different image. A visiting judge in Charleston Country noted with awe that Lowndes

"walks in with fistfuls of out-of-state adoptions and affidavits that say the home studies ought to be waived."

That assessment appears to be borne out by court records. Of 39 Lowndes/Lesesne adoptions completed in the Charleston County Family Court in 1982, no home studies were listed for 32. None of their 24 home-county adoptions in 1981 borne any indication of home studies. An incomplete tally by fall 1983 showed the same trend.

Records at the South Carolina Children's Bureau also show that most of Lowndes' non-resident adoptions illegally circumvent the Interstate Compact on Children.

At the Medical University of South Carolina Hospital, Lowndes is sometimes called "the Saturday-afternoon hustler," because his out-of-state clients tend to arrive in Charleston on long weekends to pick up babies from the hospital.

Lowndes' face is less familiar in other hospitals in counties where private adoptions are usually handled by local lawyers. The staff at Anderson Memorial Hospital became concerned when Lowndes showed up last year with court orders for the removal of four babies within a few weeks' time.

And Spartanburg General Hospital has held a long and fruitless correspondence with Lowndes over a bill he declined to pay when the child slated for adoption died soon after birth. Lowndes has referred the inquiries to an insurance carrier, which won't pay either.

Perceptions of Lowndes as a brusque man have to do with the sheer physical demands of his far-flung adoption business, which involves juggling court dates in more than a dozen counties at once.

Until his 1981 link with Michaelman, Lowndes' adoptions involved primarily babies born to South Carolina women, mostly unwed mothers. Most of his adoptive clients were South Carolina couples, who came to Lowndes through a loose referral network based mainly on word of mouth. The mothers were mainly unwed girls sent to Lowndes by doctors, or flushed out of the woodwork by "friends of friends of friends" of couples who wanted a child.

The first adoption Lowndes ever handled occurred because of his friendship with Charleston obstetrician/gynecologist Dr. Bert Pruitt, who handles one of the state's largest private adoption matching services and who is still one of Lowndes's best referral sources.

One of Pruitt's pregnant and unwed patients, he and Lowndes both agreed, was a "dead ringer" for a mutual friend of theirs who happened to be childless. Together they worked out the details and a business was born.

Lowndes said he had to have some help on that first case, and he got it from Robert R. Mallard, who had an office in the same building as Lowndes then. Mallard is now the chief judge in the 9th Circuit Family Court. Then he was a lawyer, whose practice included "a fair amount" of private adoptions, for which he allowed adoptive parents to pay a few dollars a week until they hit $3,000, according to reports filed with the South Carolina Children's Bureau.

As Lowndes began to handle more adoptions, a few birth mothers even stayed at his home in the final weeks of their pregnancies, his first wife told acquaintances. Today's mothers are more likely to find apartments, which prospective parents of their babies finance, or to live with an Isle of Palms couple who are paid for housing them.

A Sumter teenager who stayed at the Isle of Palms in 1982 got $80 a week allowance, and the family who later adopted her baby paid $400 a month for her room and board. A Michigan girl who was there at the same time got more, and her room and board was charged at a higher rate, because "her family"—the adoptive parents—had more money to spend, the girls were told.

Because the Sumter girl was originally scheduled to enter the Florence Crittenton home and to release her child to an agency, her change of mind—prompted by a Sumter obstetrician—prompted an investigation of the Isle of Palms house by the Department of Social Services. DSS notified the owners—Douglas and Carol Brown—that they appeared to be operating an unlicensed maternity home, and provided the criteria the Browns would have to meet to get a license.

DSS workers who visited the house said they found four pregnant girls from three states and Mexico staying there. The investigation was dropped, however, on the basis of a brief letter from Lowndes, as attorney for the Browns, who said they were not operating an unlicensed maternity home. A copy is in the licensure file.

The need to find housing for pregnant girls is but one change that has occurred over the years.

"If you came to me back then and asked about adoption, I'd expect you to find the baby," Lowndes said. "I'd advise you to tell everybody you knew that you wanted to adopt a baby—friends, relatives, neighbors, doctors, ministers, the guidance counsel-

ors at schools. Maybe once every three or four years somebody would walk in and say, 'I'm pregnant.' It just didn't happen. Still doesn't.

"I'd tell you all the rocks to look under that I could think of, but I never thought of advertising. For many years it never occurred to me that somebody pregnant and worried to death about it would even look at a newspaper."

Before the Charleston News and Courier and the Evening Post began publishing in 1981 classified advertisements for white infants to be adopted by childless couples, Lowndes was handling about a dozen adoptions a year. In 1981, he handled 24 in Charleston County alone, and the local figures jumped to 34 in 1982 and 54 in 1983, Family Court records show.

Most of the couples placing those ads were clients of Michaelman in New York.

The turnabout for Lowndes began when a pregnant teenager in Charleston dialed a telephone number listed in a Charleston newspaper ad placed by a couple looking for a baby. They referred her to Stanley Michaelman, who assured her all her medical bills and living expenses would be paid if she came to New York to have her baby and agreed to surrender the child for adoption there.

"She went, but she couldn't stand New York," Lowndes said. "She told Michaelman she was going to have her baby at home in Charleston. Period. He had to have a lawyer in South Carolina handle that adoption or lose it, so he asked around and ended up calling me."

Michaelman remembers that young lady, too.

He says he picked Lowndes to handle that case because the girl had heard of him. He stayed with Lowndes for all his South Carolina work because he did a "good, clean job" and was easy to work with. South Carolina, he admits, was a godsend, because so many other states were clamping down on private and non-resident adoption.

New York was among them, its crackdown prompted at least partly by Michaelman himself. In 1978 he was indicted but not convicted on 192 counts of perjury, interfering with a government investigation, accepting under-the-table cash for adoptions, conspiracy and unlawful child placements.

In 1980 Michaelman was the primary subject of an investigative journalist's book, "The Baby Brokers", and by 1981, he was up to his ears in clients but hampered by a reputation as a baby-seller.

"One reason I liked Tom was he never looked to circumvent the law," Michaelman said, "Those indictments and that book all came from a particular point of view—not entirely accurate, in my opinion.

"I guess people will always think of me as a baby-seller because of that. But you can't look at Tom Lowndes and see anything but what he is—a hard-working, straight-shooting lawyers."

Lowndes says he talked with Michaelman before accepting that first case from him, "and if I had thought there was baby-selling involved, I wouldn't have taken it. I wouldn't take any now if I thought there was baby-selling involved. Of course, a lot of people think you've bought a baby if you pay legitimate expenses, but that's just agency talk. Agencies would like to have all the business."

Michaelman says he has no idea how many adoptions he handles a year and how many of them involve South Carolina.

"I don't know because I'm phasing out my adoption practice," he said recently. "I've been in it 13 years, and that's long enough."

If Michaelman does quit—and his detractors doubt that he will—it's not likely that the volume of interstate adoptions involving South Carolina would decrease as a result. Evidence suggests increasing numbers of lawyers from other states are discovering South Carolina.

[From the State (Columbia, SC), Feb. 27, 1984]

ROSEMARY CARNEY DIDN'T WANT HER BABY, BUT THERE WERE PLENTY OF PEOPLE WHO DID—AS SHE WAITED IN SOUTH CAROLINA TO DELIVER, SHE WAS PRESSURED, FRIGHTENED AND ALONE

(By Margaret N. O'Shea)

Rosemary Carney closed her eyes and stabbed at a colored map in an encyclopedia to decide where in South Carolina her baby would be born.

Her finger skidded and stopped on Greenville. It sounded like the edge of nowhere—just the right place to disappear and, with a little luck, forget after the baby was born. After the baby belonged to somebody else.

Today her memories are bitter: "Those were the worst five months of my life," Rosemary said when the ordeal was over. "Everybody wanted my baby but me, and nobody cared if I rotted in jail, as long as I handed over the baby first."

The nightmare began in Kansas, when Rosemary was raped Nov. 5, 1982. She nursed her bruises and wounded pride alone, trying to pretend nothing had happened. She did not report the rape, fearing her ex-husband would use it against her in a custody battle over their 3-year-old daughter.

Next, Rosemary tried to pretend she wasn't pregnant, either. By the time she forced herself to see a doctor, the deadline for a legal abortion was only three days away.

"I just sat on it for a couple of weeks, trying to figure out what to do," she said later. "And every Sunday I noticed all the ads for adoption in The Kansas City Star like crazy. I finally got up the courage to pick one of the numbers and call."

The telephone number belonged to a Connecticut couple, who referred Rosemary to their attorney, Stanley Michaelman, in New York.

Michaelman told Rosemary not to worry. The Connecticut couple wanted to adopt her baby. They would pay her living expenses for the remaining five months of her pregnancy, cover her medical bills and six weeks of "aftercare," then provide her a plane ticket "anywhere you want to go if the adoption goes through."

Rosemary said her little girl would be with her.

"No problem," she was assured.

In mid-March, Michaelman's office called and asked where Rosemary would like to have her baby—Arkansas, Texas or South Carolina. "They told me the adoptive family was from Connecticut, and those would be the only three states they could adopt from.

"My ex-husband and I both had relatives in Arkansas and Texas, and I didn't want to go there," Rosemary said. "I guess I'd heard of South Carolina, but I certainly never gave it a lot of thought. It sounded far away, and I liked that. I picked South Carolina."

But she was stumped when told to pick a city. "I honestly didn't know the names of any South Carolina cities," she said. "I had to look it up in the encyclopedia."

Airline tickets and $150 arrived in the mail, and by March 24 Rosemary and her daughter were in Greenville with instructions to find an apartment and call New York. They spent five days in a motel waiting for more money.

The next step was finding a doctor and getting estimates of medical costs to report to Michaelman. Rosemary did, and she made preliminary arrangements to deliver her baby at Greenville Memorial Hospital. Her allowance was set at $50 a week, then raised to $60.

Everything was going fine until Rosemary discovered there were no arrangements yet to pay her hospital bill. In a frantic call to New York, she was told not to worry—the bill would be taken care of by Tom Lowndes, "a lawyer in Charleston. Mr. Michaelman said all the money had to go through Mr. Lowndes because Mr. Lowndes did all his legal work in South Carolina."

Lowndes, who has handled adoptions in at least 13 counties, had never done one in Greenville, however, and there was apparently confusion over the hospital estimate. Until it was resolved, Greenville Memorial had no intention of releasing the baby to Lowndes or anybody else for adoption.

"The social worker, Sandi Claytor, told me, 'They're not going to get your baby if they don't pay the bill right away,'" Rosemary said. "She said maybe I should consider looking for another lawyer to handle the adoption, and she referred me to Stuart Anderson."

Ms. Claytor—now Sandi Bell—wouldn't discuss the Carney case, but she said hospital policy does not permit referrals to specific attorneys. "We hand them the Yellow Pages," she said.

Anderson, who frequently handles private adoptions, also declined to discuss the Carney case, except to say that warning bells rang when he heard Michaelman's name.

Anderson said he had once handled the South Carolina end of a Michaelman adoption where a distraught mother had to carry the baby out of the hospital herself and hand him over to the adoptive parents.

Only after talking with Anderson did Rosemary learn a court hearing would be required. She began to wonder if it was legal to accept money from Michaelman and whether she would have to pay it back if the adoption did not go through.

Anderson thought the family court should be briefed, and Rosemary's fears intensified when Judge Larry Patterson remarked, "This is an illegal transaction. It's a black-market adoption."

Patterson also would not discuss the case or his views of private adoptions involving large payments of expenses and fees. Nor would he say why he may have thought the Carney baby's adoption would be illegal—South Carolina has no specific law against selling a child outright.

By then, Rosemary felt damned if she did and damned if she didn't go through with the adoption. She told her pastor, who called the Connecticut couple and told them their plans were illegal.

Rosemary didn't yet know it, but her pastor had a family in mind for the baby, and Anderson had another.

Telephone lines singed. The frantic would-be mother in Connecticut called New York. Michaelman called Lowndes. Both lawyers called Rosemary. That was on a Friday.

On Saturday, the Connecticut woman tried to persuade Rosemary to have the baby in Charleston, where judges were friendlier.

"I told her I couldn't leave Greenville because of the court. I was afraid I'd be in all kinds of trouble, but she really tried to talk me into moving to Charleston."

Sunday night the woman called again, urging Rosemary to relocate to Arkansas.

"I told her, 'I don't want to relocate anywhere. My baby is due in two weeks. In Greenville we've made friends at church, and they're going to take care of my little girl while I'm in the hospital.' "

Then Lenore Michaelman—Michaelman's wife—called.

"She said if I needed a babysitter in Charleston, they'd find me one. I said no. They could use my daughter to force me to disobey the court or do something illegal. I made up my mind right then and there that they would never get their hands on my little girl. I was getting so scared I even thought they'd sell her to somebody, and I'd never see her again."

Rosemary began to wish she had kept a copy of the Kansas City newspaper article about Michaelman that had appeared right before she left. She had sent the clipping to Michaelman, who had laughed, "It will just bring me more business. That's what always happens. It's just another witchhunt like 1978, but I was cleared of that one."

The 1978 reference escaped Rosemary, who had never read The Baby Brokers, a 1980 book about adoption practices. The author, investigative reporter Lynn McTaggart, described the Michaelman "witchhunt," a New York investigation that resulted in 192 charges—75 felonies and 117 misdemeanors—among them perjury, obstruction of a government investigation, illegal acceptance of undisclosed cash payments for adoptions, conspiracy, unlawful placements and related offenses stemming from the adoption of 24 infants to 23 couples. (One got twins.)

McTaggart said the trial didn't prove much beyond $4,000 under-the-table cash for each placement. The prosecutor did not require the birth mothers—who came from seven states—to testify for "humanitarian" reasons: If they knew Michaelman was accused of illegalities, they might try to get their babies back.

Recalling the newspaper article about Michaelman frightened Rosemary even more. She was convinced she would go to jail if she let Michaelman place her baby. But there were practical matters to be considered, too—her due date was by then less than two weeks away.

"I knew what I was going to do," she said. "Tell them all to take a flying leap. But I had to buy some time first."

The pressure continued. Lowndes called. If Charleston was out, and Arkansas was out, how about Dallas? She refused.

The Connecticut woman called, pleading with Rosemary to go to Dallas before the baby came. "I'm sorry you have a vendetta against Mr. Michaelman," she said, "but we're out a lot of money, and we still have an empty cradle."

Rosemary bristled. "I told her not to lay a guilt trip on me—I feel bad enough not doing what I said I would do, but it would all come back to me. I'm not doing anything illegal for anybody.

"I always figured they had a backup anyway. I wasn't the only person who answered that ad, and that wasn't the only ad, either. Michaelman probably had a dozen babies ready to pop any minute, maybe more, and those people could get one of them.

"I really thought maybe they were just a screening couple anyway, and the real people who were supposed to get my baby didn't know me, and I didn't know them. Besides, if there was a problem in South Carolina, there could be a problem in Arkansas, and there could be a problem in Texas.

"No thanks."

The phone was silent for four days before Michaelman called: "How fast can you pack and get ready for Dallas?"

Rosemary unplugged the telephone for several days.

"When I thought they'd given up on me, I plugged it back. The minute I did, it rang—the woman in Connecticut. "Lord knows how many times she had dialed my number," Rosemary said. "She really gave it to me. She told me I shouldn't have listened to the hospital or the judge or Stuart Anderson, and she kept saying they were out a lot of money.

"I was fed up. I told her it wasn't my fault if they were going to roll over and let Michaelman take their money."

That was the last phone call. Rosemary entered the hospital the following day and gave birth to a baby boy.

She has planned to let Anderson choose a family for the baby, "but the moment he was born, I knew I couldn't do it. All those months I thought I didn't want him, but I did. I thought it mattered how he started, but it didn't."

At the end of 1983, Rosemary Carney was still in Greenville on welfare, looking for a job and a lawyer willing to sue Stanley Michaelman. She wasn't having much luck with either.

[From the State (Columbia, SC), Feb. 27, 1984]

"We Are a Happily Married Couple," the Advertisements Read, "With Every Blessing But One—We Have No Child—Help Us, Please! Call This Number"

(By Margaret N. O'Shea)

It is a risky business, spawned by desperation, but hundreds of childless couples are turning to classified advertising in South Carolina and other states in a last-ditch effort to find babies or young children they can adopt.

For most of them, it is simply a matter of time before the investments pay off. But for a few, it leads to a last, bitter frustration.

The former now have children. The latter say they paid hundreds—sometimes thousands—of dollars for the care of unwed mothers who decided after delivery to keep their babies after all. Or their ads attracted only crank calls, or women who demanded up to $10,000 cash for a child, automobiles, extensive travel allotments or other financial incentives in return for a baby.

A few say they received calls from people who offered them children of all ages for cash payments, and some said they were contacted by women who admitted they were not pregnant but who offered to get that way for money.

The emotional advertisements for children are fraught with potential for fraud. Two Dorchester County women and a male accomplice are serving time in jail for defrauding couples here and in California of money all of them paid last spring in anticipation of adopting the same baby.

The deception was discovered in California when two couples, who had never met before were introduced and discussed their mutual interest—the pending arrival of a baby in South Carolina. Comparing notes on their experiences, they discovered that each couple was subsidizing the same woman and expecting to adopt the same child.

Back in South Carolina, Walterboro attorney Cranwell Boensch heard news of the Dorchester County arrests on his car radio and nearly hit a ditch. He realized that he, too, had given prenatal expense money to one of the arrested women for a client who also expected to adopt the child.

Other potential risks of advertising for babies include losing money on a change of heart, financing a fraudulent pregnancy, paying unrecoupable expenses for a stillborn child or "unadoptable" baby with birth defects, and being traced later through the telephone listing by a mother who wants her baby back.

Such risks may mean little to couples who have tired of sperm counts and basal temperatures charts in their futile efforts to conceive, and who have been given little hope of adopting a child anytime soon through conventional agencies.

More than 40 couples interviewed by The State said they weighed the risks before placing their ads and were prepared to gamble.

From New York City:

We are a happily married couple with every blessing but one. Our family can give a child a loving home and all the best things in life. Help us to help you. Give yourself, your baby and us a happier future. Call collect evenings or weekends. . . . Expenses paid.

From New York State:

For your baby—a happy, loving, completely secure home. For you—expenses paid, strict confidentiality, peace of mind. We are a young, happily married, educated white couple, but we are childless. If we Adopt Your Baby we will give it everything you would ever want for it. That's a Promise!!! Call collect. . . .

From California:

California couple anxious to adopt white newborn or baby to share love & security, totally legal. Call Fran collect. . . .

From Connecticut:

Wanted to adopt: healthy white girl to 5 years for warm, childless Christian couple. Will pay all reasonable expenses. Call collect. . . .

And: Happily married couple wish to adopt white newborn and/or toddler up to 2 years. . . .

Occasional adoptions have appeared in the Richland Northeast newspaper and The Gamecock at the University of South Carolina. The ads also have been carried at one time or another by newspapers in Charleston, Beaufort, Sumter, Anderson and Laurens.

These listed examples came from a six-month sample of classified advertisements in Charleston from October 1982 through March 1983. They were sandwiched between notices for erotic telegrams and admonitions for prayers to St. Jude, "patron of hopeless cases." Adoption ads now appear under a separate heading.

During the sample period, 90 couples advertised for children in the Charleston classifieds, 88 of them for white infants and two for older children. The ads underscored the widespread yearning for babies and the scope of South Carolina's reputation as an easy place to get them.

The 88 telephone numbers were in Canada, both Carolinas, Florida, Tennessee, Iowa, Colorado, Virginia, California, Pennsylvania, Massachusetts, Rhode Island, Maryland, Connecticut, New Jersey, New York and Washington, D.C. Two of the advertisers listed addresses, not phone numbers, and one hapless couple urged readers to call collect but forgot to list a number to call.

Twenty-two of the telephones listed were never answered during repeated attempts last summer. Another 28 numbers had been disconnected or reassigned—an indication that the advertisers either got what they wanted or gave up. Most adoption lawyers who advise advertising suggest a temporary number for the life of the ad to avoid being traced later, or to provide a line open for nothing but adoption calls.

All but seven of the remaining advertisers had received babies, and a random check of additional ads placed in other newspapers yielded the same apparent success rate.

Some of the advertisers said they had received only three or four responses to their ads, while others had 20 or more calls, which they referred to their lawyers—a system that could theoretically mean satisfaction for several clients at the actual expense of only one.

Most of the couples who advertised in South Carolina also placed ads in other states as well, among them Arkansas, Kentucky, Texas, Kansas, New York, and the District of Columbia.

A Greenwich, Conn., woman who advertised for a white infant first banked on a South Carolina baby and gave $1,500 to the mother in Columbia for various expenses, but that mother decided not to surrender the baby for adoption after delivery.

Already out $5,000 to a New York attorney and $1,500 for the South Carolina mother who fell through, the Connecticut family decided a baby would be too expensive. They adopted instead two toddlers from Fort Smith, Ark., whose mother decided to release them for adoption through a private lawyer rather than lose them to the state for abuse and neglect. The children had the same mother but different fathers.

[From the State (Columbia, SC), Feb. 28, 1984]

BLAME IT ON MOTHER MAYFIELD

MARGARET MAYFIELD FOUNDED ASSOCIATED CHARITIES AND CAMDEN'S RED CROSS AND WAS A TIRELESS WORKER FOR THE POOR—SHE ALSO SOLD BABIES

(Third in a series)

(By Margaret N. O'Shea)

South Carolina has become a national clearinghouse for babies only recently, but its reputation as an easy place to get a child is old, thanks largely to one woman whose crusade to find homes for children blossomed into big business.

The late Margaret C. Mayfield of Camden was personally responsible for the adoption of almost 600 children, and she probably saved many of them from lives of poverty or abuse. But there is overwhelming evidence today that she sold the children, scattering them throughout South Carolina and several other states, in Saudi Arabia and in the Philippines.

"Mother Mayfield," as she liked to be called, was a diminutive society matron given to large diamonds, delicate scents and flowered hats. Her public image was impeccable.

At the peak of her adoption business in the 1950s, however, she approached pregnant women on the streets of Camden to solicit their babies, she siphoned off babies whose mothers intended them to be placed through state agencies, she badgered consents for adoption from the poor and ignorant, and she gave top priority to patrons who gave the largest and most frequent "donations."

Her own records and abstracts in the Kershaw County Courthouse also show that she split families of children of all ages, and she defied directives to curtail her practices until the governing board of her non-profit children's home divorced her from its operations, fearing scandal.

Bradford Huie, a longtime member of the Associated Charities board, said Mrs. Mayfield ignored repeated pleas to let agencies handle adoptions of children from the Mayfield Home. While the board was not aware of any irregularities in Mrs. Mayfield's adoptions, its members feared potential backlash from the exposure of black market adoptions handled by D.N. "Tiny" Rivers of Ridgeland, Huie said.

Rivers, a former speaker pro tempore of the state House of Representatives, was disbarred in 1965, two years after the revelation that he had forged a judge's name on fraudulent adoption papers for an interstate black market adoption ring. A Jasper County grand jury refused to indict Rivers, but the board in Camden, 143 miles away, knew there could be other repercussions affecting private adoption across the state.

They sought to protect the name of Associated Charities and—for her sake—that of Margaret Mayfield.

She had been best-known for charity work. She had founded the Red Cross in Camden during World War I, and after the war, Associated Charities, which functioned as a county welfare organization from 1919 until the state Department of Public Welfare was born in 1937.

For many years, Margaret Mayfield had been the conscience of Kershaw County, and some local poor might not have survived the Great Depression without her efforts, which included annual fund-raising drives to feed and clothe the needy and to warm their homes.

Even today, most Camden gentility refuse to speak ill of Mrs. Mayfield, although some older residents concede suspicions, if not actual knowledge, that she sold babies.

"It was no secret," said one, "that the more you 'donated,' the quicker you got a child, and if you were really generous, you got a baby, and not one of the older ones.

"Don't put my name to it, but people used to say that anybody who sat on the steps of the Mayfield Home long enough could get a baby passed out the door, and it might have been true. Back during the '30s and up through the '50s, you couldn't pass along Fair Street without seeing an out-of-state car parked in front of the home.

"That might be a bit of an exaggeration, but there were a lot of folks in and out of there, and it wasn't to read stories to the children."

Several Camden residents were at the Post Office once when one of them, who still bristles at the memory, inquired about adoption. Mrs. Mayfield's answer was so sharp that it turned heads: "You can't afford one of my babies!"

Still other longtime residents, including some lawyers who handled adoptions for Mrs. Mayfield, say everybody knew she took money from adoptive families, but only to finance the home.

Community attitudes were largely shaped by who Margaret Mayfield was. Her father, Henry G. Carrison, had been mayor of Camden and founded the local bank. The Carrisons had money, measured in the public view by their purchase of the town's first bathtub. The family was socially prominent and their home today remains one of Camden's most impressive and stately houses.

The daughter, Margaret, was a young widow when she married a wealthy cotton broker and took his name—Mayfield. She devoted her energies to charity, and in 1930 the Camden Chronicle said her good deeds among the poor were so numerous "until she might be said to be 'The Charities' herself."

That year the Children's Home of the Associated Charities was opened, although it was commonly called the Mayfield Home; in some court abstracts it is the Kershaw County Children's Home.

Gradually, over the next decade, Mrs. Mayfield conducted fewer charities, and by 1940 her activities had become almost secretive. There were no more widely publicized fund drives, even in 1942, when fire destroyed the original home and a new one was purchased.

Some pieces of the Mayfield jigsaw have been kicked from dark corners in recent years, largely through the registration of adult adoptees and birth mothers with search organizations.

According to scores of persons who have registered with TRIAD—an organization that promotes reunions between consenting birth mothers and the grown children they surrendered for adoption as babies—most of the women who signed adoption consents at the old Door of Hope maternity home in Columbia were told their babies would be placed by a state agency.

Instead, up to 200 of them were channeled through the Mayfield Home, records indicate.

Women who sought information about their adopted children through the S.C. Childrens Bureau—only to find their files were not there—discovered what had happened only when a stack of Mrs. Mayfield's personal records was discovered.

Those mystery babies, born at the now-defunct Door of Hope, had been placed through the Kershaw County Children's Home. The consents, which most mothers thought released their babies to the Children's Bureau, were frequently witnessed by the late Bessie Reed, longtime matron at the Door of Hope, or by Lois Scott (Paramore), who managed the children's home for Mrs. Mayfield.

Some of the original consents were signed before the babies were born, a form of adoption consent that wasn't legal then and isn't now.

Several adoptive families have told TRIAD they paid substantial amounts of money—"donations"—over long periods of time to Margaret Mayfield. One TRIAD member found a stack of canceled checks in her deceased parents' effects. The earliest were payable to the Mayfield Home, but the rest were personal checks to Margaret Mayfield and bore her endorsement, the adult adoptee said.

After her ouster from the children's home, Mrs. Mayfield complained to several people that she was no longer able to receive "important mail" there.

In the late 1930s, more than 190 families who had adopted children through the Mayfield Home were solicited for donations toward a portrait of Mrs. Mayfield. The painting hung until 1982 in the home, which was then in its last days as an emergency shelter and temporary foster care facility.

When it closed, the portrait was offered first to the Red Cross, then to the last surviving Carrison of Mrs. Mayfield's generation. Neither wanted it, and until recently it rested in the basement of the Camden Archives, which chose not to display it. The family now has the painting.

Then there was a letter, found among Mrs. Mayfield's records after her death. It had been written in pencil 40 years earlier by an anguished Camden man who said he was "still looking for work" in Washington, D.C., so he could support his three little girls, who had been left at the Mayfield Home.

By the time the letter was written, however, two of the children had already been adopted, and the writer begged Mrs. Mayfield not to "sell" the third, whose name was Mildred. The child was about six years old.

The distraught father said he had learned that Mildred was to be sold when a stranger brought him consent forms to sign in Washington. The stranger allegedly claimed that he had already paid Mrs. Mayfield for Mildred. Mayfield records indicate Mildred was adopted.

In 1946, the pregnant wife of a teacher at the Camden Military Academy grew weary while shopping downtown and sat down to rest. She recalls today that her

fingers and feet were swollen, and she had removed her wedding ring and wore old shoes.

A gray-haired woman—wearing furs despite the heat—approached, briefly studied her bare ring finger, and asked, "Do you need any help, honey? I can help you if you aren't able to keep your baby."

Describing the encounter later, she learned that she had met Margaret Mayfield.

The frequency of such encounters began to blur Mrs. Mayfield's image, although no one had doubted her altruistic motives when she first opened the children's home. There was a need for such a haven in 1930. Kershaw County was struggling through depression. The cotton crop had failed three years in a row, and many families could no longer feed and clothe their children.

The original purpose of the Mayfield Home was to care for youngsters until they could be returned to their families.

In 1931, Mrs. Mayfield told the local paper it was hard to find families for children who needed them. But by the end of 1932, she reported 20 adoptions a year and 30 in 1938. The newspaper said in 1942 that "more than 200 little souls" had been adopted through the Mayfield Home.

Local historians attribute the widespread success of the adoption program to several factors. Families of Camden's wealthy "winter colony"—including some who adopted children there—told childless friends in Northern states about the Mayfield Home.

Winter residents from New York, New Jersey and Connecticut served on the governing board.

In 1931 the Southern Aviation School was established at Camden in preparation for World War II, and the military grapevine added new families to the Mayfield adoption lists. DuPont arrived in 1950, and executive transfers in and out of Camden created still another conduit for spreading the word.

By then, Mrs. Mayfield was competing with the Children's Bureau and Department of Public Welfare for adoptable babies and toddlers—the ages in demand.

That demand apparently led to her liaison with the Door of Hope, and when that maternity home was closed in 1953 for sanitary and other reasons, Mrs. Mayfield announced she would establish her own home for unwed mothers.

Critics today contend that the splitting of brothers and sisters in two or more adoptive families may be the largest single challenge to claims of altruism at the Mayfield Home. The implication is that more families meant more money.

Courthouse and private records show several such instances when children from the same family were split among several in adoption, possibly never to see each other again. In one case, handled by Murchison and West—the Camden law firm of John C. West before he was elected governor—five sisters from the Mayfield Home were placed in a single day with five separate families.

West, now practicing law at Hilton Head, says he doesn't recall the case and doubts that his firm was involved. But the five consecutive entries in the Kershaw County judgment roll, all filed Aug. 25, 1964, all list Murchison and West as firm of record.

Former South Carolina Congressman Ken Holland, who was associated with West's firm in 1964, said he handled the five cases at West's direction, but was told the girls' father had lined up the five adoptive homes. The children's ages ranged from five to the teens.

By 1964, Mrs. Mayfield was no longer publicly associated with the home, and she was under strict orders from its board not to continue private adoptions of children from the facility. Kershaw County court records indicate she did, however.

The home itself was no longer listed, but the same attorneys who has previously handled Mayfield adoptions maintained essentially the same volume throughout the '60s, including placements of children from the Mayfield home.

There is no indication that local lawyers knew of financial gain from some of those adoptions. Those who knew of the "donations" assumed the money kept the home afloat.

Mrs. Mayfield was assumed to be independently wealthy and therefore able to plow all her energies into charities without pay.

Probate records show she did inherit about $60,000 in securities from her father in 1937, along with $4,999 cash, a town lot valued at $600 and a gold cross that had been her mother's. Her long marriage to Mayfield was apparently more arduous than ardent, however. He left her out of his will except to say she could continue to occupy their Broad Street house—minus various furnishings he willed to others.

Mrs. Mayfield filed a claim against the estate for $150,000 "on account of the failure by him to carry out his agreement to make adequate provision in his will for

her, and for services." The heirs persuaded her to settle for $25,000, provided she moved out of the house.

Mrs. Mayfield lived another 25 years with no acknowledged income beyond her 1937 inheritance and the 1950 settlement.

When she died in 1976 at age 94, probate records listed her assets at $131,752.08. Among other bequests, she left $5,000 to the Mayfield Home.

Mrs. Mayfield's death 15 years after her "retirement" left some legacies that don't show up in the probate records—historical gaps that may never be filled. One concern about the Mayfield adoptions expressed by the Associated Charities board was her sloppy records.

Mrs. Mayfield apparently had a habit of stuffing sheafs of consent forms into odd places, and on one occasion visitors to the home were horrified to find children playing with a set they found stored in the garage.

Over the years, the county welfare department and state Children's Bureau frequently asked Mrs. Mayfield about her records, and both offered to store hers with theirs as a security measure. She declined the offers.

The few records that have been found are almost worthless, according to those who have seen them. At least once, Mrs. Mayfield, then well over 60, recorded herself as the mother of a baby.

One person who would like to have found the Mayfield files is TRIAD founder Mildred Szakacsi, who says, "I can't count all the adult adoptees placed through the Mayfield Home who are desperate for any information about themselves. And I see so many birth mothers who had confidence all these years that their babies were properly and legally placed by a legitimate state agency who now know that the children went through the Mayfield Home.

"They are worried—and I think they have a right to be—that somebody who would take babies by trickery would not take any special care in placing them, even though we have had reports of some fine families who adopted from the Mayfield Home.

"Maybe some of these concerns could have been resolved if more people had known what was going on before she died, but a lot of secrets were buried in the Quaker Cemetery with Mrs. Mayfield."

Ironically, then-state Attorney General Daniel R. McLeod received in 1963 a report that Mrs. Mayfield was planning to bring "either a trainload or a planeload of babies into Camden and they could be headed for black market adoptions."

"I never had a chance to look into it," McLeod said recently, "and I really couldn't say if it was true. My office got involved in the Tiny Rivers thing, trying to locate the parents of those babies and make sure their adoptions were legalized."

[From the State (Columbia, SC), Feb. 28, 1984]

VICKIE ARNETTE SOLD HER 6-YEAR-OLD DAUGHTER FOR $2,200—ILLEGAL? NOT NECESSARILY—CHILDREN CAN BE DEEDED AS REAL PROPERTY—BUT THE GRANDPARENTS WANT THE PROPERTY RETURNED

(By Margaret N. O'Shea)

She was taking Quaaludes then, and the room was bathed in a mellow haze that day in 1981 when Vickie Arnette signed a paper that would allow her six-year-old girl, Terrace, to be adopted by a couple she'd met in a restaurant.

Those memories are still hazy. Mrs. Arnette says now she doesn't remember signing anything, and doesn't recall appearing in Lexington County Family Court to affirm that she had voluntarily relinquished her parental rights.

One thing she does claim to remember is the money. The envelope that allegedly changed hands that day was supposed to contain $5,000, but it didn't. Mrs. Arnette says that she and her husband were given $2,200 for their child.

Child-selling is just one issue in the state Supreme Court appeal that challenges Terrace's adoption.

And even if a cash transaction did occur—an allegation firmly denied—South Carolina law does not specifically prohibit the sale of a child, and an old statute allowing children to be deeded as real property is still on the books.

When the Lexington County Sheriff's Department was initially asked to investigate the disappearance of Terrace Arnette, based on a rumor that she had been sold for $5,000 and possibly taken to Cuba as a child prostitute, the officer who handled the case was appalled to discover there was nothing he could do under the law.

Investigating officer Dalton B. White received the initial report from relatives of Terrace Arnette's father. They said he claimed to have sold the little girl, and she was on her way to Cuba. White said the reference to child prostitution was more likely a fear than a reality.

But once he got his teeth into the investigation, White reluctantly notified the Wyatts and the relative who had filed the report that the case was closed.

The records on Terrace's adoption are sealed by law, and while White was looking for a missing child, neither he nor the child's maternal grandparents—Helen and Dennis Wyatt—had any idea at all that Terrace was the subject of a case then pending in the family court.

Nor did Judge A. Frank Lever Jr. appear to know that the adoption case before him was anything other than routine. On July 22, 1981, be issued an interlocutory decree of adoption, which gave Donald and Esther Cook custody of Terrace and the right to take her home with them to Guantanamo Bay, where Cook is a civilian employee of the U.S. Navy.

The Wyatts have never claimed the Cooks are unfit parents for Terrace. They don't know and have never met the Cooks.

"In all honesty, we really don't know anything at all about them or about what is happening with Terrace," Mrs. Wyatt said before she was advised by a lawyer not to talk about the case. "We don't know if she is dead or alive."

The Wyatts last saw their grand-daugther July 7, 1981. Terrace had spent several days with them, as she often did, and the Wyatts had decided then they would seek to adopt her. They suspected, but didn't know for sure, that Terrace's parents were using drugs. They knew that Terrace did not seem to be well cared-for at home.

Those suspicions were bolstered when their daughter, Terrace's mother, left her with them that last time. "I want to see how I do without her," Vickie had said. "The way things are going, maybe she would be better off living with you."

But the Wyatts walked gingerly on the issue, not knowing that somebody else wanted to adopt Terrace, too. Unknown to the Wyatts, the Cooks' petition for adoption was filed on July 8.

About a week after Terrace left, the Wyatts visited the Arnette home and the child wasn't there. They accepted the story that she was away with her other grandparents.

Not until July 18 did the Wyatts begin to suspect that Terrace was missing. Other relatives reported they hadn't seen her either, and one called to ask if they had heard about Terrace being sold. The Wyatts were frantic, and their fears heightened when Terrace's parents moved without telling anyone in the family.

The Wyatts contacted the Richland and Lexington County sheriff's departments, the State Law Enforcement Division, the FBI and solicitors Donnie Myers for the 11th circuit and James C. Anders for the fifth.

They hired a private detective. They went to the state Department of Social Services and to the Children's Bureau on the off-chance that either agency would know something about their grandchild.

The Wyatts eventually contracted The State, which located Terrace's parents and determined that adoption proceedings for Terrace were under way. The grandparents attempted to block those proceedings but could not.

In their efforts to find Terrace, the Wyatts were repeatedly told grandparents had few or no rights in South Carolina, and law enforcement agencies could not intervene without evidence that a crime had been committed.

Psychic Mary Green told the Wyatts that Terrace was safe and well "somewhere near water." She also told them relatives of several other missing children, about Terrace's age, had come to her, convinced like the Wyatts that their youngsters had been sold.

The Wyatts were never able to prove that money greased the adoption consents for Terrace, but they were not surprised when their daughter tearfully claimed that it had. The admission came after Vickie moved back home and underwent psychiatric treatment and drug therapy.

Mrs. Arnette is officially listed as the appellant to the Supreme Court, but what is under appeal is an order by Judge Lever dismissing her parents' petition to vacate the earlier adoption and to allow the grandparents to adopt Terrace, or at the very least, to be given visitation rights. The same order dismissed Mrs. Arnette's claim that her consent to the adoption was obtained under coercion and duress.

Legally, what did or didn't happen is not important. An appeal must be based on judicial error. Lawyers for Mrs. Arnette and the Wyatts have claimed that Lever made several errors when he ordered their claims "dismissed with prejudice."

Some of these claims hinge on technical issues. Others involve grandparents' rights, speedy adoption decrees and whether "the best interests of this minor child

demanded that these grandparents be heard, particularly where serious allegations, including child-selling had been made."

In a list claiming 22 separate judicial errors were made, the Wyatts further claim that they were, as a practical matter, Terrace's parents because they did more for her and with her than her biological parents did.

Progress in the case, filed in the Supreme Court last May, has been slowed by the death of the Wyatts' attorney. Court employees said no hearing date will be set until all the attorneys—whoever they turn out to be—agree what will be in the file.

Although the Wyatts don't have an attorney right now, the one who died had advised them not to discuss the case any further. "I can't say anything right now except we still hope and pray that Terrace will come home," Mrs. Wyatt said.

"When we decorated the Christmas tree—not this Christmas past but the one before—we just couldn't take it down until we had Christmas for Terrace. Her presents are still there under the tree, and this last Christmas we added some more. We tried to send presents to Cuba for her last year, but they were returned. This Christmas we didn't even try. We just sent a card, and it was returned, too."

While the Wyatts have waited on the courts, Terrace has grown older. She has lived in her adoptive home for a year and a half, increasing the likelihood that the courts will ultimately rule her best interests are served by remaining where she is. She is eight years old now.

Although most childless couples seek to adopt newborn infants, there is also a "market" for healthy, white older children, and statistics from the state Department of Vital Records show that more than two-thirds of all adoptions over the past 10 years have involved children over the age of four.

SMALL CHILDREN PLACEMENT—1972–82

	Private agency	Agency adoptions	Percent private
Newborn	264	2	99
Under 6 mos	1,329	67	96
Under 1 yr	1,953	339	86
Through age 4	6,264	2,006	75

Step-parents adopting children from a spouse's prior marriage account for a significant portion of the adoptions of older children, and some of them are covered by stepped-up agency efforts to find homes for older children who have spent years in foster care or who have been removed from their birth families because of abuse or neglect. Vital Records does not cross-relate those types of adoptions to age, so it is impossible to tell how many older children are privately adopted by non-relatives.

[From the State (Columbia, SC), Feb. 28, 1984]

What Happens When the "Merchandise" Is Defective? Usually, Rejection and a Busted Adoption Deal—Sometimes, a Happy Ending

(By Margaret N. O'Shea)

Baby Linda was expected to cost $15,000 and perhaps as much as $22,500—standard rates for some private adoptions in the Sumter area in 1982.

But when Baby Linda was born at the Tuomey Hospital, her value in the private adoption market plummeted. Born deaf, with minor deformities of the ears, and with "squared eyes," the outward signs of Treecher-Collins Syndrome, the infant was defective merchandise.

That status was underscored at the hospital when the New York couple who had planned to adopt the child looked at her through the viewing window, than turned around and bluntly announced, "No deal."

Baby Linda's mother—who had been promised $3,000 once the legal consents were signed—was lucky to get a plane ticket home.

The drama that attended Baby Linda's birth provided the first hints of Sumter's role in an interstate adoption traffic pattern with South Carolina as the hub.

Sumter is one of several cities here where women from other states and from other parts of South Carolina are diverted shortly before their babies are born in order to place them for adoption through Palmetto State courts.

Women who have come to Sumter solely to have babies there have come from several states and Mexico. The families who adopted their children came primarily from a handful of Northeastern states.

Baby Linda's mother was living in Florida when she discovered her pregnancy. She had one child already and didn't feel financially able to handle another one alone. She went to a Miami Beach abortion clinic, where she was talked out of having an abortion.

Instead, the counselor urged her to call a New York attorney she knew only as "Jay."

"Jay" promised to pay all her medical and living expenses until the baby was born, then $3,000 afterwards, if she would agree to let her child be adopted. But, he said, Florida law wouldn't allow him to help her out. She would have to have the baby elsewhere.

Actually, what Florida law would not allow was the sale of the baby or an adoption by non-residents

About three months before the baby was due, the mother was flown to Sumter, where she lived in the Holiday Inn awaiting the onset of labor.

Her needs were attended in Sumter by a lawyer she knew only as "Tony." She said later it was "Tony" who paid her expenses in Sumter and who told her to get out of town as soon as possible after the adoption of her baby fell through. And it was "Tony" who informed her that she would not be paid $3,000 after all because "the deal is off."

Tony was Anthony Hoefer of the Levi and Whittenberg law firm. Hoefer declined to discuss Baby Linda or private adoption in general without a pledge that neither his name nor the name of his firm would be publicly named.

"I would be gravely concerned that any of our clients would feel that their confidentiality had been violated in any way," Hoefer said.

"Jay" in New York had told the young mother that her contact in Sumter would be from a different firm, one headed by Rusty Weinberg. When the time approached for her transportation to Sumter, she said, someone from Weinberg's firm contacted her in Florida to make the arrangements. But when she got to Sumter, all her contacts were with associates of Levi and Whittenberg.

Family court records in Sumter County indicate that several lawyers from the Weinberg firm and from Levi and Whittenberg have handled private adoptions over the past several years.

Sumter also appears to be one of the few areas in South Carolina where some birth-mothers have their own attorneys. Adoptive parents pay all the legal fees.

When the private adoption of Baby Linda fell through, it was suddenly up to the Tuomey Hospital social worker to figure out what to do with her. Sumter County Department of Social Services was notified first on the assumption that DSS should either put the infant in foster care or find a family willing to adopt a handicapped baby. Sources close to the county DSS said the agency "wasn't crazy about the idea of cleaning up the lawyers' mess."

The South Carolina Children's Bureau, which is the state agent for interstate adoptions anyway, accepted responsibility for baby Linda, who is thriving today in a South Carolina adoptive home. The couple who adopted Baby Linda had indicated when they applied for an infant that they would be able to accept a handicapped child, and they had expressly mentioned that a hearing loss would be a problem they could cope with.

Baby Linda, who was a reject on the private market, spent only three weeks in foster care before she was placed in her adoptive home—the time it took to get a follow-up medic all report on her ailment.

The Children's Bureau, DSS and Catholic Charities have all placed handicapped babies who would otherwise have been subjects of private adoption.

Several county DSS workers have also counseled with young mothers who decided to keep their babies after potential adoptive parents turned them down because of birth defects or apparent bi-racial heritage.

Charleston lawyer Thomas P. Lowndes, who handles up to 100 private adoptions a year—more than half of them through referrals from New York attorney Stanley Michaelman—told The State that birth defects or medical problems are rare in his field.

Lowndes has been dunned by Spartanburg General Hospital for a maternity bill he refused to pay after the child was born dead—"That's about as unadoptable as you can get," Lowndes said. But he denies that's why he didn't pay the bill over a year ago.

"That's one of the risks involved in private adoption. Somebody has to pay the bill, even if the mother changes her mind or the child dies," he said. "I tell all my

clients that. In this particular case, there was insurance that was supposed to cover the hospital costs, and as far as I'm concerned, if insurance will pay when a child is born alive and healthy, it should pay when a child is born dead."

The out-of-state family did accept the child's body for burial.

"It's not always true that the child is 'defective merchandise' if it's not perfect," Lowndes said.

One Lowndes client—a New York woman—moved to South Carolina when the baby she was to adopt was born three months early. The woman camped out at the neonatal unit for weeks, he said, waiting for the baby to grow enough to take home.

[From the State (Columbia, SC), Feb. 28, 1984]

TINY RIVERS WAS DISGRACED FOR HIS PART IN A BLACK-MARKET RING

(By Margaret N. O'Shea)

It was a foolproof scheme to evade stringent adoption laws in other states by processing black-market babies through comparatively lax courts in South Carolina, but designers of the plan didn't count on one thing—Tiny Rivers had a conscience.

The former state legislator confessed in 1963 that he had forged adoption decrees and other documents for an interstate ring.

The adoption scheme involved New York and Florida couples, who paid $3,400 to a Miami lawyer, Joel Lee, who was supposed to provide them babies. Most of the couples assumed their children were born in Florida, but Florida law prohibited child-selling and required home studies before adoptions could occur.

Lee arranged for the babies to be born in Georgia, then returned to Florida, where he handed them over to adoptive couples at the Jacksonville airport.

Fraudulent adoption papers were then processed in Jasper County, S.C., by D.N. Rivers, a Ridgeland lawyer who had once been speaker pro tempore of the S.C. House of Representatives.

South Carolina law did not require a home study or waiting period, and an adoption could be effected in one day—even by out-of-state couples adopting an out-of-state child.

Consequently, the adoptions processed by Rivers would have been legal had he not forged Circuit Judge John Grimball's name on 12 of the adoption decrees. Rivers also forged the name of 14th Circuit Solicitor Randolph Murdaugh on six "referee's reports," and the names of the adoptive parents on the adoption petitions.

He chose as his confessor then-Attorney General Daniel R. McLeod, who notified the state Law Enforcement Division, the FBI and Solicitor Murdaugh, who took the matter to a Jasper County grand jury. McLeod also launched a search for the New York and Florida families so their adoptions could be legalized.

Rivers was not indicted, but he was disbarred, and he died disgraced.

He never disclosed how he got involved in the adoption ring—even to McLeod or to his attorney, Sen. L. Marion Gressette, D-Calhoun. Some of Rivers contemporaries speculate that he was solicited for his role by owners of the "Green 'Gator," a local house of prostitution that was said to be part of an East Coast chain. Rivers had done some other legal work for "Green ' Gator" principals, who were also acquainted with Joel Lee.

Jasper County court records do not list attorneys of record as most county abstracts do, but Rivers had a unique way of logging his cases, and a check of those similarly logged indicates he was probably not involved in more than 15 adoptions between 1959 and 1963. No Rivers adoptions were recorded for those years in neighboring Hampton County.

Joel Lee, who was disbarred in Florida for his role in the adoption ring, was paid more than $40,000 for the 12 disputed cases—less expenses, which he kept minimal by boarding the pregnant mothers only briefly in a fleabag motel and arranging non-hospital deliveries.

Tiny Rivers received $4,200 for the dozen cases that ended his legal career.

[From the State (Columbia, SC), Feb. 29, 1984]

LEGAL GAPS AND LAPSES

WHAT ADOPTION LAWS SOUTH CAROLINA DOES HAVE ON ITS BOOKS, OFTEN ARE IGNORED OR CAN BE LEGALLY CIRCUMVENTED

(Fourth in a series)

(By Margaret N. O'Shea)

South Carolina's adoption laws are full of loopholes large enough to wheel a baby carriage through.

Greenville court officials stumbled onto one in January, when a Simpsonville woman told police she's changed her mind about selling her child, but the couple who'd bought the toddler wouldn't give her back.

Mary Elizabeth Andrews said a Simpsonville couple, Bill and Betty Griggs, had offered her $3,500 for her 22-month-old daughter in December, and they'd paid her $1,000 of the money. The Griggses said the $1,000 was a loan, which Ms. Andrews asked for after she had signed an adoption consent. They denied ever promising money to her or making arrangements to pay in installments the remaining $2,500 she said was due.

As a result of the police report, the little girl is in the custody of the Greenville welfare department, pending a court hearing on her future.

Simpsonville Police Chief William "Ray" Brown initially thought he had a child-selling case on his hands, but he couldn't find a law prohibiting the sale of a child.

Brown notified 13th Circuit Solicitor William B. Tr :r Jr., who also couldn't determine whether anything illegal had occurred.

Traxler had asked the state attorney general's office whether child-selling is a criminal violation under state law. That opinion had not been issued. While the lawyers assigned to research the case have not found a specific law against selling a child, they are looking for any related statute or common law that might apply.

Mark Dillard, a spokesman for the attorney general's office, said the opinion will be issued only after all the potentially applicable laws have been studied.

Meanwhile, Rep. David H. Wilkins, R-Greenville, introduced a bill in the General Assembly last week that will prevent outright child-setting, without precluding the payment of medical and other maternity-related bills by potential adoptive parents.

Child-selling in Georgia and Tennessee is a felony, punishable by up to 10 years in prison. In those states and in North Carolina, it is illegal for any person or group other than a state or licensed child-placing agency to profit financially from placing a child.

In North Carolina, the first offense is only a misdemeanor, however. A second or subsequent offense is a felony, punishable by up to three years in jail and a $10,000 fine.

In Illinois, only an official agency can receive a fee for placing a child, and in Florida any fee over $500 must be approved by the courts.

Colorado allows only the payment of legal fees in an adoption. Maryland permits payment of only legal and hospital costs pursuant to an adoption, Pennsylvania and Florida require an accounting of fees, and Kentucky allows only licensed agencies to accept adoption fees.

All of those laws are efforts to preclude the sale of a child or the charging of exorbitant legal fees, which can smack of child-selling.

None of those precautions appears in any form in South Carolina law.

Some precautions that do appear are diluted by waiver provisions. A family court judge can waive the legally required home study that is supposed to determine whether an adoptive applicant is suited to parenthood.

Judges also can waive the legally required six-month waiting period before a final adoption decree is issued—a time period designed to determine whether a proposed adoption is going to work out.

The law provides that an interlocutory decree—which amounts to physical custody during the waiting period—also can be waived.

In each case, waivers are permitted at the discretion of the family court judge "for a good cause" or "in the best interests of the child."

The effect of the waiver provision can be to allow hasty adoptions into homes that have never been determined suitable by anyone.

South Carolina law implies that home studies should perferably be handled by the state Children's Bureau or a licensed "private or public welfare organization having as one of its main purposes the care and placement of children."

But it also allows the court to designate someone else, and there are no guidelines to what type of expertise that individual should have.

A study by The State of nearly 50,000 Family Court docket sheets in 34 counties, including adoptions finalized over a two- to five-year period in each county, showed home studies are more frequently ordered in step-parent adoptions of children from a spouse's earlier marriage then they are in infant adoptions.

The irony is that family stability is implied in the new family unit's desire to be legally one, and the likelihood of such a home being declared unfit for the children to live in is remote.

When the home studies are not waived, they are frequently handled by persons with no connection to the Children's Bureau, Department of Social Services or any other organization of the kind outlined in the law.

In some cases, the studies are done by persons paid for the service by the adoptive parents whose home is under scrutiny, and the Children's Bureau has received reports of home studies by lawyers' wives or secretaries and other parties with a vested financial interest in an adoption's going through.

South Carolina law also provides that judges appoint a guardian ad litem to protect the interests of children in an adoption proceeding. The law does not specify any qualification for the guardian, and while most docket sheets do not indicate who was named to handle that task, most of those that do name a local lawyer.

Several lawyers who have handled that assignment told The State it involves signing a statement that adoption is in the best interests of the child.

In most Family Court proceedings, a minor child is required to have a guardian ad litem. The requirement does not apply when a minor child gives birth to a baby who is then placed for adoption, however. State law permits a birth mother of any age to sign an adoption consent.

That means the court—which normally has no physical contact with birth mothers—has no clue to the conditions under which a consent to adoption was signed.

Some mothers claim later that they were forced or coerced into signing a form they really didn't mean to sign; that they signed under the influence of drugs; that they were led to believe they would have repay money spent on them during the pregnancy if they did not sign; or that they mistakenly thought their prenatal consent was legally binding.

South Carolina law does not outline any conditions under which an adoption consent might be considered invalid, however, so any effort to revoke a consent would apparently be subject to judicial discretion alone.

As a matter of practice, a few adoption lawyers advise birth mothers to get their own attorney, but most are the only attorney of record in an adoption case, which legally is an adversary proceeding between adoptive parents and birth parents or custodial agent.

The adoptive parents are the paying client. The birth parents normally are not.

Critics of private adoptions handled in this manner contend that the birth mother has little or no hope of adequate legal advice or unbiased counsel regarding her rights and interests.

Lack of attention in state law to the status of birth parents—particularly the mothers, who often don't name fathers to avoid obtaining their consent—can contribute to undetected sale of children and to questionable consents.

The waiver of waiting periods and home studies also can lead to hasty adoptions that preclude a birth mother from exercising her legal right to petition the court for a revocation of any consent that she believes was deceitfully or wrongly obtained.

Under South Carolina law, consents are irrevocable once an interlocutory or final decree of adoption has been entered.

Anyone who wants to try revoking an adoption consent may have another hurdle that is only partly addressed in state law.

An adoption petition must be filed in the county where the adoptive parents or the child reside. Some lawyers try to build in an added layer of confidentiality by applying for a change of venue or transferring records with permission of the court—a maneuver that can effectively prevent a mother from determining what county to appeal to if she feels wronged in the adoption proceedings.

In some cases, the names of the parties have been falsified with a judge's permission to hide those cases.

One reason South Carolina has become a mecca for adoptive couples from other states is its loose and indefinite provision for out-of-state adoptions. State law says out-of-state parties may adopt a child here "under unusual or exceptional circumstances," but it does not provide any guidelines for determining what is unusual or exceptional.

Some states do not permit adoption by non-residents, and some have severely restrictive requirements even for residents.

All are affected by the dwindling supply of adoptable babies through agencies—a phenomenon that is partly attributable to abortion, contraceptives and a lessened stigma in premarital pregnancy.

Demographics are a factor, too according to California adoption lawyer David K. Leavitt. The postwar baby boom after World War II produced a plentiful supply of babies, but now those babies are grown and they are in the generation now seeking to adopt. As a result, the pool of people seeking to adopt is now bigger than the pool of adoptable children.

In states like South Carolina, where adoptive parents can pay for a mother's shopping list of expenses and agencies cannot, there is also more incentive to release a child for adoption privately than through an agency.

Those factors combined create ideal conditions for interstate adoption traffic.

The one law that could affect the validity of hundreds of adoptions every year is technically not a state law, but a federal compact that includes South Carolina and 45 other states among its members.

The states which are not members of the Interstate Compact on Children are Hawaii, Michigan, Nevada and New Jersey.

The compact generally applies to the movement of children across state lines. In South Carolina the compact is administered by DSS when the movement pertains to foster care or non-adoptive placements with a child's relatives in another state. The Children's Bureau administers the compact for interstate adoptions.

When a child in one state is being adopted by parents from another state, the "sending" state—the child's residence—must be notified of the pending adoption and provided the names of the biological mother and the prospective adoptive parents. The reason for the interstate adoption must be stated.

Provided both states are members of the compact, certain steps must be taken for the protection of the child. The "sending" state must notify the "receiving" state that an adoption has been proposed, and it will involve the transportation of the child to that state. The receiving state must approve the transfer, and the adoptive home must be approved in a home study.

Only then can the out-of-state parents have custody of the child and take him home.

Statistics from the South Carolina Department of Vital Records indicate that most interstate adoptions ignore the compact, however. It's hard to pinpoint the exact number though, because the Vital Records figures are based on a calendar year, while the compact figures are based on a fiscal year.

In calendar year 1980, Vital Records recorded 400 out-of-state adoptions, and in calendar 1981, another 445. But in 1980–81, the first year South Carolina was a member of the Interstate Compact, the Children's Bureau approved only 38 referrals for out-of-state adoptive placements.

In calendar 1982, Vital Records recorded 450 out-of-state adoptions. In 1981–82 the Children's Bureau approved only 154 referrals and denied 31.

Katherine Queen, the deputy who administers the compact for the Children's Bureau, says many lawyers who handle private adoptions appear to fear their placements would be jeopardized if submitted to compact scrutiny, "but the purpose is not to stop independent placements. They are legal. If they were not, it would be a different story.

"But one purpose of the compact is to protect the child as if he were being placed by an agency. We attempt to ascertain how the placement came about and whether the birth parents gave full and informed consent. We compile and preserve as much background and medical information as possible, as if the child were protected by agency placement.

"We also try to assure that state laws are complied with, and the home is a suitable home for the child."

These things take time, however, and it sometimes happens that when the compact office is notified, it's while the mother is in labor or after the child has been born, and the out-of-state parents are in the South Carolina to get him out of the hospital and take him home.

In some cases, they already have the child in a motel room, and any delays are then perceived as the fault of the bureaucratic state, Mrs. Queen said.

At least one South Carolina lawyer claims that the bureau has refused to begin any paperwork on a private adoption until the child is born, but the bureau says the further in advance they are notified, the better the process works, and "the placement can proceed without a hitch."

"We aren't putting up the obstacles," Mrs. Queen said.

The biggest problem with the Interstate Compact is its total unenforceability. It depends on lawyers to notify the state. Some appear to be unaware of the compact's existence, although it is written into state statutes. Others contend that it doesn't apply if the South Carolina courts grant an interlocutory decree before the child is taken across state lines.

The compact provides that penalties for violation be determined by the individual states, and violators are subject to penalties in two jurisdictions—the two states involved in the illegal placement.

South Carolina law doesn't specify any penalties, although adoptions that don't comply with the law are technically invalid and subject to challenge.

Since 1980, several states have challenged placements that did not conform to the Interstate Compact, and most of those children were ordered returned to their home states.

In South Carolina, the Interstate Compact aside, it is a misdemeanor to remove a child under six months old from his mother without notifying the Children's Bureau of the names and addresses of the persons with whom the child is placed. That statute is routinely ignored, as evidenced by the numbers of adoptions recorded by Vital Statistics versus the far lower number filed with the Children's Bureau.

It is also a misdemeanor to bring a child into the state for adoptive placement without notifying the bureau, although it is unlikely that the interstate transportation of children within the womb is covered by that law.

S.C. STATE ADOPTION LAWS

Until modern times, South Carolina adoption laws were designed for children who least needed to be adopted. Here is a summary of South Carolina's adoption laws:

1892–1896

The first general state adoption law applied only to legitimate white children. That law, passed in 1892, was worded to preclude the adoption of children living in orphanages—an oversight that was corrected in 1896, provided their parentage could be proved.

The law still excluded black children, since there were no black orphanages in the State, and it excluded foundlings of unknown parentage.

1900

An amendment in 1900 removed the restriction on the adoption of illegitimate children, provided their parents could have been married under South Carolina law. That change ruled out children born of adulterous relationships and racially mixed unions, as well as the issue of all or most rapes.

(No man could be married to two women, and state law prohibited interracial marriages until 1967.)

1907

In 1907 the General Assembly added a provision requiring a wife's consent before her husband could adopt a child.

1911

In 1911 the Legislature removed the requirement that an orphan's parentage must be proved before adoption could occur.

1952–1963

There were no further changes in adoption law until 1952, when the statute was written much as it stands today. Revisions were made in 1963 after a black-market baby scandal. The major changes were to require a home study and a waiting period before an adoption could take place, but a provision that either or both could be waived rendered them effectively nil.

[From the State (Columbia, SC), Mar. 1, 1984]

CASE FOR PRIVATE ADOPTIONS . . .

(Last in a series)

(By Margaret N. O'Shea)

Charleston lawyer Thomas P. Lowndes Jr., who handles more adoptions than any other lawyer in South Carolina, has heard every horror tale in the book about buying and selling babies, but he has a story he likes to tell better:

"A family court judge once said to me, "If somebody came into my office and told me they'd just given a woman $50,000 for a baby, I'd be really really impressed with their financial state and with their desire to be parents. Then I'd check their suitability to be parents. Other than that, I don't think I'd care."

His anecdote summarizes a prevalent attitude about private adoptions, including those that cost more than most South Carolina families earn in a year. (The 1980 census figured the median South Carolina annual income at $16,978, and more than half the state's families earn less than $22,000 a year, the highest-known adoption cost here.) Most family court judges, who issue adoption decrees, are apparently impressed when wealthy families want children enough to pay that kind of money to get them. A few judges are highly vocal about it.

One is Mendel Rivers, son of the late South Carolina Congressman L. Mendel Rivers and a family court judge in Lowndes' home county. "I didn't know there were so many New York Jewish CPAs till Tom Lowndes started parading 'em in here, but I'll tell you one thing: I don't see anything wrong with letting them have these little unwanted babies. These babies will never want for a single thing.

"Their mothers are the scum of the earth, the dregs of society, and if they kept the children, they'd raise them over in the Franklin Trailer Park on welfare and give them no father figure, or only a fleeting father figure with all their boyfriends in and out.

"Those little babies would have no stability in their lives, getting dumped on their welfare mama's welfare mama or welfare grandmama, and sooner or later we'd see them here in family court with cigarette burns where their ears used to be and marks where's she's beat them with an electric cord.

"One good thing about adoption is letting people who deserve to have children have children."

Rivers says he prefers private adoptions to "bureaucratic" agency adoptions where "babies stay in foster care instead of going directly into a family" and "they spend weeks counseling the birth mother instead of doing what's best for the child, when they know and everybody else knows, the last thing these women need or want is a baby."

Another family court judge who prefers private adoptions to agency adoptions because of their speed is B.J. Warshauer of Sumter. He says the families that adopt privately "are not all that wealthy—they average maybe $50,000 to $60,000 a year," but their ability to provide for a child is important.

Both judges agreed the private adoption system singles out families with money, and it may prevent less well-to-do families from adopting babies. But they both also asked, "What's wrong with that?"

Some family court judges in the Piedmont and Pee Dee have started taking a closer look at out-of-state couples who adopt in their court, demanding home studies and waiting periods, although both can be waived. And Spartanburg County brings birth parents into court to verify they were not intimidated or coerced into giving up their babies.

A Greenville County judge has said he won't approve any adoptions involving both interstate traffic and big money transactions because, in his opinion, they are illegal.

But The State found no evidence that judges anywhere are routinely questioning the upper-bracket financial status of adopting parents.

The main reasons lawyers and judges cite for preferring private adoption are:

Agencies have long waiting lists and they turn perfectly worthy people down "for no reason at all."

Agencies can get more money from the government for keeping children in foster care than for putting them into adoption.

Agencies say they are looking out for the best interests of children, but they really are more concerned about their own interests and want all the adoption business just to perpetuate the bureaucracy.

Agencies harass birth mothers, who "just want to do it and forget it," by insisting on counseling they don't need and don't want.

Agencies are impersonal.

Birth mothers don't have any way of knowing that agencies will give their babies to good families. In private adoption, they "choose" the families themselves.

In private adoptions, babies go straight from the hospital into homes, and they have the advantage of early bonding with their adoptive parents.

Agencies insist on a lot of red tape.

Agency personnel deny most of those allegations, but they acknowledge that they can't compete with the private adoption market.

Beverly Hills attorney David K. Leavitt, who channels some of his massive adoption business to South Carolina, says advocates of agency adoption "would like to have everyone believe it's because of money over and under the table, but it's not because anybody is buying anybody else's baby. There are three areas where agencies just can't or won't compete:

"They don't let a mother choose or know where her baby is going. They put babies in foster care instead of sending them home from the hospital with adoptive parents. And a very distant third is their lack of ability to pay for private medical care."

Columbia lawyer Harvey Golden, who is helping to draft a uniform adoption law for the American Bar Association, says that document will attempt to discourage excessive legal fees and payments that smack of child-selling.

He agrees with Leavitt, that some parties who participate in private adoptions ought to be stopped: lawyers who pit hopeful couples against each other to get the highest bidder; hospitals and clinics that participate in competition for babies or harass unwed mothers; and doctors or others who solicit babies for "finders' fees."

"People who really are baby brokers, although I don't think there are that many of them, make it difficult for legitimate private adoption to continue," Leavitt says. "That's one reason interstate adoptions occur. When one state goes overboard because of abuses, it forces couples who can't have children and who can't adopt children to find a place where they can."

Golden says attempts to outlaw private adoption simply because abuses have occurred would be a mistake. "Agencies won't admit it, but historically and statistically it is obvious that they have made it difficult, if not impossible, in some states for Catholics and Jewish couples to adopt a child.

"I just don't happen to believe that babies are Catholic or Jewish when they are born, but when Catholics are restricted to adopting through Catholic Charities and Jewish couples are restricted to adopting through the Jewish agencies, and the agencies are handling only 'Catholic' and 'Jewish' babies, you've got a clear and compelling reason to keep private adoption alive."

Lowndes says he shudders to think of changes in state adoption law that would lock out non-residents: "Anybody who is truly concerned about black-market adoption would have a reason to be concerned then."

One reason birth mothers prefer surrendering their babies to lawyers rather than agencies is financial. The pregnant woman who seeks confidentiality from the time she begins to "show" and who can't afford to disappear without financial assistance, has an incentive to release her baby for adoption to someone who does have the money and who is willing to part with it.

The same holds true for medical bills and other expenses related to pregnancy and delivery. Even without direct cash payments for a baby, private adoption has built-in financial incentives like those.

Some birth mothers like to believe they are choosing a family for their child, although they seldom really know where their babies are or with whom.

Some advocates of private adoption have reasons that have little to do with the babies and families involved.

One of them is Barbara K. Chappell, director of the Children's Foster Care Review Board System, which monitors the status of South Carolina children in institutions and foster homes.

"In addition to assuring for babies families that not only love them, but who can also give them every material thing that they need, the system has had a positive effect for children who otherwise would never have been adopted at all.

"Some of the most avid proponents of private adoption are families who have received children, often quickly and easily, through lawyers—and family court judges concur there is nothing happier than an adoption on the day the final decree is issued.

"We have the families come back to South Carolina or back into court from wherever they live, and it's a beautiful, emotional experience for everybody," Rivers said. "They've taken pictures every three minutes of the child's life, and they've got stacks of albums and home movies to show.

"Here are these little babies, fat and healthy and happy, and little Jewish grandmamas whose faces light up every time they look at the kid. Here's the guardian ad litem all set to swear they must be good candidates for adoption—they've got blood in their veins—and everybody's happy.

"I cry. They cry. The lawyer cries.

"You can't tell me it's better to turn everything over to power-hungry bureaucrats who want to control people's lives. Agencies are like ink stains on paper—they spread. They take over.

"I am one of those people who just happens to believe that if these families want to spend some money to defeat the bureaucrats, then it doesn't bother me at all. I'm proud to help them do it."

. . . And Against Them

(By Margaret N. O'Shea)

The distraught Georgia woman begged an Upstate South Carolina obstetrician to find her one more baby: Her own three had all died mysterious crib deaths and she was unable to bear more chilren.

Touched by the woman's grief, the doctor did find a baby—the child of an unwed mother coincidentally referred to him by the pediatricians who had treated the three dead babies while they were alive.

Two weeks later the fourth baby was also dead, and the woman confessed she had smothered him against her breast, as she had the other three, while her husband was at work. She was committed to a mental institution and no criminal charges were filed.

It happened 12 years ago, and the pediatricians who described that incident to The State called it "a horrible, tragic thing that should never have happened at all."

"The only real reason for finding a baby for that woman was to replace the ones she had lost, and the obstetrician sincerely and genuinely thought that if anybody ever needed a baby, she did," one of the doctors said. "The way it turned out, if anybody ever needed a baby, she didn't."

As a result of that experience, doctors in that pediatric group no longer participate in private adoption placements—but they are in a minority. Doctors and lawyers together arrange most of the private adoptions that occur in South Carolina, more than 1,400 a year.

It is practice roundly criticized by social work professionals, who contend that it takes special expertise to recognize the right home for a child.

Francis E. Lewis, executive director of the South Carolina Children's Bureau—the state's oldest adoption agency—is one of the most vocal critics of private adoptions arranged by doctors and lawyers:

"Doctors create new diseases all the time, and lawyers can find 50 new ways a day to create a need for their services, but when social workers start talking about all these principles we've known for years, we are accused of just trying to justify our own existence.

"There is a lot more to it than that. Our agency is the one that has to step in and clean up the messes made by people who didn't know what they were doing. Our agency is the one left to place the handicapped babies and the premature babies with health problems that aren't good enough for these wonderful people who love and want babies so much they are willing to buy one."

Lewis has asked the legislative committee that handles children's affairs to consider some sweeping changes in South Carolina adoption law that would virtually eliminate a significant chunk of the private adoption business. Lewis wants all adoptions by nonresidents to be handled by licensed agencies, like his own, and preference given to South Carolina couples who are waiting for babies.

Those adoptions now are almost exclusively the province of private lawyers, most of whom do not notify the Children's Bureau, as required by law, or meet the legal provisions of the Interstate Compact on Children when babies are placed across state lines.

Lewis would really like all South Carolina adoptions to be monitored by agencies, but he knows such a proposal stands little chance of passage.

Several South Carolina judges and legislators have adopted children through private lawyers—including one senator who mentioned in passing during a political campaign that he'd like to have another child but was "out of the baby-making busi-

ness." The week after election day, a candidate for another office suggested he adopt a baby she knew about.

A partial list of public officials who handled at least some private, non-relative adoptions during their legal careers includes one former governor, one former congressman and three family court judges.

In addition, eight state senators and 10 representatives have handled private adoptions through their law offices.

Wendell E. McCrackin, a Myrtle Beach lawyer who has handled several adoptions a year for two decades, was a member of the General Assembly in 1963 when South Carolina adoption law was last revised.

His arguments were largely responsible for the much-abused provision that home studies and waiting periods can be waived, although evidence suggests that McCracken is careful about getting home studies done.

He does not do "quickie" adoptions, pay any maternity expenses, get prenatal adoption consents, or handle adoptions for out-of-state couples unless they have relatives or close friends in Horry County.

The director of the Children's Bureau when McCrackin was in the House was Josephine A. Cannon of Columbia. Like her predecessor, the late Elizabeth Mouzon, Mrs. Cannon tried to get the Legislature to confine all adoptions to the Children's Bureau, excluding even the state welfare department.

As recently as 1981, officials in the division of Children and Family Services at DSS tried to get the welfare agency's governing board to sponsor legislation that would require all adoptions to be monitored—not performed—by state agencies.

The request was made at two consecutive board meetings, and both times two lawyer-members—Chairman John C. Williams Jr. of Spartanburg and Jerry Fedder of Seneca, who has since left the board—refused to allow the measure to come to a vote.

Williams and Fedder both said the mere suggestion of monitoring private adoptions maligned lawyers and family court judges, who could be trusted to handle them properly. Neither Williams nor Fedder has ever been involved in more than a handful of private adoptions in legal practice.

But present Children's Bureau Director Lewis and other critics of private adoption contend lawyers and judges can't all be trusted, and they're convinced that some in South Carolina would be considered black-market baby brokers in a state where child-selling is illegal because of the high legal fees they charge, and the long list of financial incentives they offer birth mothers.

Those lawyers, Lewis says, almost invariably wink at the rights of birth parents and ignore legal protections for babies.

"It's hard to say that babies are being bought and sold," Lewis says. "We are aware of very few outright cash payments for children. But we are aware of many women who planned to release their babies to us or to DSS, but changed their minds when offered money for rent, clothes, transportation, medical expenses and $1,000 cash to start life over after the baby was born.

"Is that buying the baby? And when couples pay thousands of dollars in exorbitant legal fees, are they buying preference over couples who have less money to compete for a child?

"Those are all thin lines."

Dr. Diane Thompson, who is in charge of adoptions at DSS, says some private adoption is "child-snatching" because "those babies are stolen from the agencies that have the legal authorization and the social work expertise to place them properly."

Agencies handle only 15 percent of all infants placed for adoption, and their long waiting lists mean it will be four to six years before an applicant can expect to have a child—if then. DSS has a waiting list of 400 names long, and the South Carolina Children's Bureau has 200 families waiting.

DSS is no longer accepting new applications for infant adoptions, and while the bureau and religious/charitable agencies take new applications, they don't guarantee anything will come of them.

Many families who turn to doctors and lawyers to help them find a baby do it in frustration at the wait, or because they fear they will be "too old" by the time their name gets to the top. The agencies contend that the private adoption system has helped to create those long waiting lists and only makes them longer by siphoning off healthy, white infants.

"It's a vicious cycle," says Lewis, executive director of the Children's Bureau. "When all the babies go to the private adoption market, it gets harder and harder to adopt one through the agencies. Then doctors and lawyers point to the agencies and say, 'They can't get you a baby, but we can.' "

Search organizations for adult adoptees also object to private adoption. They say the medical information and genetic histories adult adoptees want are seldom collected and kept by lawyers, although they are routine in agency files.

William Pierce of the National Committee for Adoption in Washington, D.C., was among the first to realize that South Carolina was becoming a national marketplace for babies about three years ago, when reports began filtering in from his member agencies.

Pierce says there is just too much room for abuse in private adoption. One reason is that lawyers are paid by adoptive parents.

"Those are the clients who have to be satisfied—not the mothers of the babies and not the babies," Pierce says. "There is nothing to keep a pervert from coming up with a mother who is willing to give up her child, and there is nothing to keep an unscrupulous lawyer from holding out for the highest dollar.

"In that kind of system, potentially wonderful parents can be locked out of adopting children if they don't have ready cash. That's not fair to them or to the children, who deserve a shot at the best possible parents, not just the wealthiest."

Critics of private adoption say its advocates misrepresent the truth about mothers and babies. "These are not poor, helpless, unwanted babies being given up by hard and callous 'loose women,' " Lewis says. "One reason agencies believe in counseling is that we know from experience how hard it is to surrender a baby for adoption.

"The women involved are almost all from 'nice,' middle-class families, and most of them care very deeply about their babies. They grieve. They send letters and pictures to go in the babies' files in case they ever want to know why they were given up. They want their children to be well provided for, but they want most for their children to be loved."

[From the State (Columbia, SC) March 1, 1984]

Inaccuracies Cited in Adoption Article

Representatives of two Sumter law firms told The State Wednesday that an article in this adoption series was unfair and inaccurate in references to their firms.

"Every adoption that this firm has handled has been done pursuant to established law and under the scrutiny and with approval of courts of competent jurisdiction whose prime consideration was the benefit of the child," said Philip Wittenberg, senior partner in the firm of Levi, Wittenberg, Harritt, Hoefer and Davis.

The article was in Tuesday's newspaper and it was about a birth mother whose child had a birth defect. The prospective adoptive couple declined to accept the child. In statements to a social worker, and printed in The State, the birth mother claimed she was denied $3,000 promised her.

Wittenberg's firm was to have handled the adoption, and he said no one in his firm arranged such a payment or had any knowledge whatsoever of any such promise.

It was inaccurately reported that arrangements for the adoption were handled by attorney Anthony Hoefer, a partner in the Wittenberg firm. He did not handle the arrangements and there is no basis for actions attributed to Hoefer in connection with the case.

(Another partner in the firm, William L. Harritt Jr., handled this adoption procedure. He was not mentioned in the article and there is no information to suggest any improper representation on his part—or any other member of the firm.)

Sources told The State's Margaret O'Shea that a Sumter firm headed by M.M. "Rusty" Weinberg was to be the initial contact for the Florida woman and that someone from Weinberg's firm had contacted the woman before she came to Sumter for the birth.

Weinberg said this was totally inaccurate, and there are no records in the South Carolina Children's Bureau (which assumed responsibility for the child) that would indicate any involvement by Weinberg or a member of his firm. Weinberg said he had not been involved in an adoption case since 1967.

Wittenberg denied claims by the birth mother, a Floridian, that she was routed to Sumter by a New York lawyer named "Jay." He said the Sumter law firm had no knowledge whatsoever of any lawyer by that name or of any promises of cash to the birth mother had their clients adopted the baby.

Hoefer and Wittenberg also said any implications that their firm abandoned responsibility for the baby after its defects were discovered were wrong—that efforts were made to find another adoption outlet for the baby, including contacts with

Catholic Charities and the Sumter County Department of Social Services. He also said clients paid the principal hospital and medical costs for mother and child.

While the birth mother's report indicated the potential adoptive parents, whom she thought were from New York, decided against the adoption after seeing the baby, Wittenberg said the couple did not travel to Sumter and did not see the child. Their decision was made after a pediatrician examined the baby and reported his findings to them by telephone, Wittenberg said.

* * * * * * *

LAW FIRM'S STATEMENT

(The following is the compete statement presented to "The State" for publication by the law firm of Levi, Wittenberg, Harritt, Hoefer and Davis.)

We are writing in hopes that your paper will exercise its journalistic responsibility to allow our firm a forum to respond to the recent article "What happens when the 'merchandise' is defective?" written by Margaret N. O'Shea as part of a series of articles dealing with private adoptions in South Carolina. This particular article is an example of "red journalism" in its most virulent form in that your reporter, after being advised that an attorney could not discuss the particulars of a specific adoption because of the absolute requirement of confidentiality imposed by the Canons of Ethics, as set forth in the Code of Professional Responsibility, printed flagrant hearsay statements and made no effort to corroborate these statements by any means, especially and most particularly by not consulting the attorneys involved. While the attorney could not have commented on specific details, an attempt to corroborate would have revealed the following falsehoods presented in the article.

1. The prospective adoptive parents were not from New York;

2. The prospective adoptive parents never came to South Carolina or Tuomey Hospital; never saw the infant and thus never made the statement upon seeing the child "no deal"; The article insinuates that all responsibility for the child was abandoned, when in fact the prospective adoptive parents paid the principal hospital and medical costs;

3. While our firm represented the prospective adoptive parents, Anthony Hoefer was not handling the case at the time of the birth nor did he have any conversation whatsoever with Baby Linda's mother subsequent to the birth of the child. He had no contact with anyone at the Department of Social Services, or at any other agency. Your reporter was specifically told by Mr. Hoefer that he had not handled the case, but that another member of the firm had, but even so, none of the statements attributed to Mr. Hoefer were made by any member of the firm;

4. Although the article does not state that anyone from our firm offered to pay Baby Linda's mother $3,000.00, the implication of our knowledge of such payment was overwhelming in the article. Such an implication is patently without substance and is untrue:

5. The Sumter firm headed by Rusty Weinberg has had no involvement with Levi, Wittenberg, Harritt, Hoefer & Davis in this case nor have the firms been associated in any other private adoption together in almost 20 years.

The story portrayed by your reporter bears little resemblance to the actual facts of this case. The falsehoods contained therein constituted wrongful aspersions cast upon our firm as well as the parties who were not involved.

Every adoption that this firm has handled has been done pursuant to established law and under the scrutiny and with approval of Courts of competent jurisdiction whose prime consideration was the benefit of the child. While we could point out the numberless benefits of the private adoption process to the children involved, their welfare the major concern, such as providing them with homes and parents who will provide them not only love and attention, but also many luxuries of life beyond mere necessities, educational, social and other opportunities which they might not have otherwise enjoyed, the purpose of this letter is not to debate private vs. agency adoption, but to point out the danger and harm of printing uncorroborated stories, in hopes that others are not defamed by this unprofessional brand of journalism, as we have been.

[From Fort Worth Star-Telegram, Oct. 10, 1983]

Big Money, Exploitation Part of Adoption Game

(By Stan Jones and Carolyn Poirot)

("Sometimes they're good-hearted baby brokers . . . not just lawyers are involved in the gray areas, but doctors are doing it and members of the cloth . . . whether the motives are unquestionably charitable or whether the motives are unscrupulous or to exploit the desperation of couples that want to adopt."—Bill Pierce, president of the National Committee for Adoption.)

Desperation is an emotion often experienced by players in the adoption game.

Infertile couples who want to adopt children outnumber available infants by more than 30 to 1, and the disparity grows each year. Nationwide, it is estimated that 2 million couples are waiting in adoption agency lines—all without any guarantee they will ever get a child.

Tens of thousands of couples seek alternatives. They strike out on their own, contacting doctors, lawyers, ministers and friends—anyone who might know of someone with a baby to adopt.

"The anxiety of wanting a child so badly and not being able to physically have one builds greatly," said John Doolittle Jr. of Houston, who adopted a baby after he and his wife tried to conceive one for six years.

In an estimated 2,000 cases a year nationally, couples turn to baby brokers—professionals who wheel and deal in a gray market for babies under the guise of inflated legal and medical charges. Baby brokers are often doctors and lawyers who know where the babies are and what they're worth to adoptive parents. They put the two together—for a fee.

Private adoptions—those handled by individuals and not agencies—are legal in Texas. But a gray market exists in some private adoptions in the state. In such cases, the emotions of both the mother and the couple trying to adopt can be exploited to turn a profit, details are neglected for the sake of expediency, and professionals may overstep legal barriers.

Seven months ago, on the day a 23-year-old unmarried Longview woman learned from her doctor that she was pregnant, the doctor's nurse confronted her about arranging an adoption—an alternative the pregnant woman had not considered. That same night an attorney she did not know called her at home to discuss giving her child up for adoption.

Last year in Louisiana, an unmarried, pregnant teen-ager walked out of an abortion clinic after deciding to keep her child. Less than an hour after she arrived home, an attorney called and asked if he could arrange an adoption for her. She refused and came to the Edna Gladney Home in Forth Worth, the nation's largest private child placement agency.

At John Peter Smith Hospital in Forth Worth, a young unmarried woman gave birth to a child and announced that she wanted the infant adopted. She had made no plans for the child. By the time the social worker contacted by the hospital arrived to see the woman, a Dallas attorney she had never seen before was in her hospital room with paperwork to terminate her parental rights.

Many women planning to give their children up for adoption have come to expect compensation, said Margie Peterson, Maternity home coordinator for Catholic Charities in Fort Worth.

"I have one client that was in a maternity home, and a private attorney was going to set her up with an apartment with her money for the child," Peterson said. "It fell through and she went to another attorney and he was going to do the same thing and it fell through."

Expectant mothers residing at the Edna Gladney Home tell stories of receiving outside offers of new cars, cash and even college educations for their babies.

It's not by coincidence that attorneys arrive at the doorsteps of pregnant women within hours after the women vist a doctor's office of abortion clinic. They are tipped off, by someone within the medical community in violation of both ethical standards and, possibly, child-placement laws, said officials with the Texas Department of Human Resources, which investigates charges of illegal placements. The lawyers who contact the women also are violating the law if they offer to help place the children or otherwise act as intermediaries, investigators for the department said.

"Let's face it, it appears you basically have doctors and lawyers who are brokering babies," said 189th State District Judge Lynn N. Hughes of Houston. ". . . I don't think there's a lot, but the potential it has for tainting the whole process of adoption is serious."

The number of babies is available for adoption has decreased dramatically in 20 years. The legalization of abortions in 1973, the sexual revolution, easly obtained birth control, the mainstreaming of pregnant women in schools and the acceptance of single parenting have all contributed to the decrease. The number of adoptions in the United States peaked in 1970 at 175,000. Last year, an estimated 60,000 children were adopted.

The majority of doctors and lawyers who deal with expectant women and adoptive parents work within the law, official say.

Mary Pinella, licensing supervisor for the Texas Department of Human Resources, which investigates complaints of illegal child placements said that even those professionals who violate state child-placement laws normally step over the line out of ignorance rather than greed.

"Three factors exist in Texas which make for a lot of gray areas," said Bill Pierce, president of the National Committee for Adoption in Washington, D.C. "Advertisement and recruitment devices are legal in Texas, private adoptions are legal and there are confidentialty safeguards involved."

Sean O'Reilly, a Fort Worth attorney who is legal counsel for Catholic Charities, said she gets a call at least every six or eight weeks from young attorneys who are unfamiliar with the Texas Family Code, which governs adoptions.

"They are usually about to get involved somehow with a 'baby selling' deal and want to know what they can do legally and how to go about it," O'Reilly said. "I say, 'Don't get involved.' If it doesn't violate the actual letter of the law, it certainly violates the intent.

"When I came here in 1978, the word at the courthouse was that every attorney is entitled to at least one (gray area) adoption," she said.

In its extreme, baby brokering is a multimillion-dollar business that extends beyond state and national borders. In a 1982 investigation by the TDHR, a Dallas lawyer acknowledged a limited role in a nationwide adoption placement network operated by California attorney David Leavitt.

The Star-Telegram obtained TDHR investigatory documents in which the Dallas attorney, Stephen Shaw, was quoted as saying that Leavitt spearheaded hundreds of adoptions a year in states throughout the nation at fees of between $5,000 and $10,000 per baby.

"Mr. Shaw stated that, by his calculation, Mr. Leavitt is engaging in hundreds, perhaps even a thousand adoption placements per year and is doing this in many, many states within the United States," the July 1982 Human Resources Department report stated.

Leavitt, who is not required to be licensed to place children in California, said he handles hundreds of adoptions annually, including a small number from Texas, but he emphatically denied any improper conduct.

Shaw told the TDHR that he stopped working with Leavitt in November 1981 after helping with the out-of-state adoptions of at least 12 Texas-born children. Shaw, who said he no longer deals with adoptions, said his estimate of fees that Leavitt received were "strictly speculation."

Leavitt said his rates are published and include a $2,000 attorney's fee, plus additional charges for medical costs and any legal complications.

Pinella said TDHR's investigation of Leavitt did not result in any criminal prosecution because he was not violating California laws by placing children. Shaw did not violate the law in Texas, Pinella said, because his function was strictly to handle the legal paperwork involved.

Leavitt claimed that the TDHR is on a campaign to "harass and oppress" attorneys who engage in independent adoptions, even though the adoptions are legal in Texas.

Jim Marquart, administrator of interstate adoptions for TDHR, said 319 Texas-born children were adopted by out-of-state parents during 1982, while 89 children born in another state were adopted by Texas parents. Twenty-five of the the out-of-state placements were private adoptions.

"There are some (adoptions) in particular where we think there's something illegal going on," Marquart said. "Generally, the illegal ones we won't see. There's not a great deal we can do."

On the international level, baby brokers appear to co-exist with—and sometimes infringe on—the black market. In El Paso, State District Judge Enrique H. Pena said it is not unusual for adoptive parents to file for adoption in the United States after buying a baby in Mexico.

"We run across a lot of cases where prospective adoptive parents get discouraged with public and private agencies and they go across the river and unfortunately,

there's unscrupulous persons and/or agencies that actually sell babies to these people," Pena said.

Within the last year, a baby who was taken across the Rio Grande on her uncle's back and sold in Fort Worth three years ago was finally returned to her mother in Mexico.

More often than not, baby brokering involves individuals who simply do not understand the law, officials say. Information obtained from TDHR files and from interviews with adoptive parents, pregnant women and adoption officials indicates that although Texas adoption laws are violated with some regularity, the bulk of the violators are one-time offenders.

Any individual involved in a private adoption who locates babies for adoptive couples without a license violates the law in Texas. The law states that women who want to give up their children for adoption must locate the adoptive parents themselves or let a licensed agency handle it.

The law was designed to prevent baby brokering. However, not everyone shares TDHR'S interpretation of the law. Many lawyers contend that the attorney-client relationship protects their rights as intermediaries in adoptions. Fort Worth lawyer Jearl Walker, who was recently accused of violating the child placement law by the TDHR doubted that such an accusation would stand up if tested in court.

"I don't think there's any violation of the law when a lawyer handles an adoption, Walker said. "It's a matter of interpretation, and there's no court that has interpreted it as the department has."

Texas is one of 45 states that allows independent adoptions in which the mother places the baby. In 1982, 25 percent of the state's adoptions were handled through licensed agencies and 25 percent were independent. The other half were adoptions by stepparents.

The TDHR does not recommend independent adoptions because there is no counseling available to adoptive parents or pregnant women and, officials say, there is a great potential for abuse—for baby brokering.

"There's nothing offensive about professional people acting responsibly," O'Reilly said "but it throws the whole burden of protecting the child's best interests on good intentions. There's no accountability."

John Doolittle Jr., and his wife had written to 54 adoption agencies nationwide in a search to adopt—only to find that many of them no longer existed.

"We naively went out into the world, calling friends and people we have known." Doolittle said. A lawyer they knew agreed to help them find a child independently. Another lawyer, representing a pregnant woman, became involved.

Through an arrangement between the two attorneys, the Doolittles began paying the pregnant woman's doctor bills and part of her apartment rent. They began to buy baby furniture and prepare a nursery. But in the ninth month of the mother's pregnancy, the woman began pressing for more money and suggesting that she might keep the child.

NUMBERS OF ADOPTIONS

	Texas	National
Fiscal year—		
1970	12,777	175,000
1971	12,368	169,000
1972	12,447	158,000
1973	12,444	153,000
1974	11,245	149,000
1975	10,991	.....
1976	11,069	.....
1977	10,957	[1] 104,000
1978	11,060	.....
1979	11,331	.....
1980	10,626	.....
1981	10,571	.....
1982	12,176	.....
1983	13,771	[1] 60,000

[1] Estimated.

Source: Texas Department of Vital Statistics National Center for Health Studies, National Committee for Adoptions.

"We suspected all she wanted was someone to pay her expenses." Doolittle said. The couple backed out before the baby was born and were able to adopt a child a few months later through the Methodist Mission Home in Houston. That was six years ago.

Lynn N. Hughes, who acted as the Doolittles' attorney, is now a judge in the 189th State District Court in Houston. He said his experience with the couple's efforts and with other adoptions gave him the impression that doctors and lawyers are brokering babies.

"It appears they were in the business of selling the children for the parents and that gave rise to considerable opportunism—the potential for blackmail, or I should say extortion," Hughes said.

Hughes said pregnant women and professionals such as doctors and lawyers can take advantage of the emotional anguish facing adoptive parents, who often seek to adopt as a last resort after years of trying to have children of their own.

"There's the opportunity for the lawyer to tantalize them," Hughes said, "He'll say "I've almost got the baby for you but things are a lot more complicated so it'll be another $1,200." What makes the problem there is the intense desire on the part of the potential parents."

In some cases, attorneys who practice family law keep lists of couples wanting to adopt and are extremely open about their activities.

"We have the names of several attorneys that do private adoptions," said Bill Read, who along with his wife, Mary, directs the Dallas chapter of RESOLVE, a nationwide infertility organization. "Typically what most attorneys do is have doctors that they have good contacts with who see young girls that are pregnant that are wanting or thinking about adoption and they'll refer them to attorneys.

"A couple can be on the waiting list with an attorney and the attorney will tell them I've got a girl whose going to deliver in six weeks and this will be your child and this is what it's going to cost," Read said. He said attorneys on their lists do not charge any more than adoption agencies do.

Pierce said: "There's a tremendous amount of area for abuse. We know that human nature is such that if an attorney has one client willing to pay a fee of $2,000 and another client willing to pay $10,000, it's tempting to take the higher paying client when no one is the wiser."

O'Reilly said most attorneys practicing family law in Forth Worth charge in the range of $70 to $125 per hour, and simple, uncontested adoptions shouldn't take more than four hours work.

"But, hardly any of them are done for less than $500, and the range is generally $500 to $1,200. That's a lot of discretion," she said. "Even if a lawyer only charges for the time involved, the issues can get gray pretty fast."

Since 1975 when the state law regulating child placement was stiffened, only one case has resulted in court action. A Hidalgo County man was convicted in state court in 1981 of planning child placements without a license and sentenced to six months in jail, the maximum penalty allowed. He was later charged in federal court with offering to sell Mexican babies in the United States.

In the vast majority of TDHR investigations, however, Pinella said no legal action is considered necessary. Violators are usually clergymen, doctors, lawyers and friends of adoptive couples or expectant mothers who broke the law innocently while trying to help an adoption along. In those cases, the TDHR issues a warning that further violations will result in referral to the state attorney general's office. One warning is usually enough, she said.

The TDHR investigated 141 complaints in 1982. Since 1980, only six investigations have been referred to the attorney general's office, and none of those resulted in further legal action. In the Fort Worth-Dallas area, only nine investigations since 1981 resulted in a determination that the child licensing laws were violated, records show.

"We're following up on every referral that we get, and I just don't know whether there's more out there than we're getting," Pinella said. "I suspect that there is, but we don't quite know how to get to it."

Monday evening women who decide to put their child up for adoption in the gray market face long and emotionally draining battles to keep them if they change their minds.

[From Fort Worth Star-Telegram]

One Case That Bent the Rules

PRIVATE ADOPTION BARRED BY JUDGE

(By Stan Jones)

Earlier this year, the Texas Department of Human Resources began investigating a private adoption involving a Tarrant County teen-ager, her doctor and a Fort Worth lawyer. The TDHR concluded that the parties involved had broken the rules of the adoption game.

The lawyer maintained the adoption was legal and charged that the TDHR is prejudiced against private adoptions because it cannot control them.

The private adoption would have been one of the estimated 2,000 "gray market" adoptions arranged each year in the nation by individual intermediaries rather than licensed placement agencies if a state judge hadn't halted it.

The gray market has become the last resort for many couples who desperately want a child but can't have one of their own. The couples turn to baby brokers who operate in a gray market in which they bring couples seeking to adopt babies and those wishing to give up their babies together, usually for a fee. Often in gray market adoptions, the emotions of the mother and the adopting couple are exploited by the baby brokers.

Although some details of the adoption made it highly unusual, it raises a question common to many private adoptions: Is the adoption serving the best interests of the child?

Jane Johnson was young, unmarried and unsure of what to do when she told her obstetrician that she might not want to keep the child she was carrying.

Her doctor, she said, was understanding. He gave her the name of an attorney, Jearl Walker, who could place her child for adoption from a list of couples desperate to have children. Johnson, not her real name, said she called Walker, who echoed the doctor's recommendation and told her she could choose her child's parents from the list. Johnson said she hoped the "private" adoption would be quiet and uncomplicated.

"What I had wanted to do in the first place was just let him (the attorney) take care of it." Johnson said. "I wanted to just have him suggest people for me and I would pick from those people.

"I thought by the word private it would go smooth," she said.

But she never saw a list. On the day after she gave birth, she was visited in her hospital room by her doctor. He told her he was going to adopt the child himself.

Johnson said she at first approved of the plan, but that she later changed her mind.

She eventually backed out of the adoption with the help of 325th State District Judge Robert Wright of Fort Worth and is bringing up the child herself.

"It seems like it was a pretty shady deal," she said, "I was relying on my lawyer to tell me everything that was to go on. It seemed like it was a conflict of interest on both the attorney's and the doctor's part. (The lawyer) wanted him to have the baby . . . I was never given any other choices besides (the doctor)."

Wright nullified the adoption plans, in part, on the basis of an investigation by social worker Helen Smith, who conducted studies of pregnant mothers and prospective adoptive parents under contract with the DHR or on a judge's order.

Smith said everything about the adoption was wrong.

Johnson had been counseled to put the child up for adoption by the very person who wanted the infant for his own—the doctor, Smith said. The mother wasn't let in on the arrangement until after the baby was born, Smith said she was told.

The day after Johnson learned of the doctor's intentions, while she was still in the hospital, she signed a form giving temporary control of her child to the lawyer, pending approval of a judge. Johnson said she signed the form at the time because she approved of the doctor's plan to adopt her child, despite the secrecy involved.

But there were other concerns, Smith said, Johnson had depended on Walker to find adoptive parents. Under the TDHR's interpretation of Texas law concerning private adoptions, intermediaries such as the lawyer are not allowed to find adoptive parents for pregnant mothers. The mothers must do that themeselves before a lawyer can become involved. The law is designed to prevent middlemen from acting as "baby brokers"—wholesaling children to the highest bidder.

Smith reported the case to the TDHR for investigation. It was discovered that Walker had been the subject of an earlier probe, involving another doctor, in which

the TDHR determined that a child was illegally placed, said Mary Pinella, supervisor of TDHR's licensing division.

When Johnson's child was still less than 24 hours old, Smith began a social study of the doctor and his family. More complications arose.

The doctor's wife told Smith she didn't know her husband wanted to adopt a child until a few weeks before the baby was born. No preparations had been made in the doctor's home for a baby. The doctor and his wife were both in their 50s, older than normal for adoptive parents. Their main reason for wanting a new child, the doctor's wife told Smith, was to have a playmate for a previously adopted daughter.

"That mother was not prepared to be a mother for a new baby at that time," Smith said. "There were no baby things purchased at all. They didn't know where the baby would sleep. There was just no place in the home for that baby."

Smith recommended that the adoption not be approved. But by signing the termination papers, Johnson had put the child "up for grabs," she said.

"(The mother) had been told that the doctor and his family would adopt that baby if she signed that paper," Smith said. "But the doctor's name appeared on nothing. The doctor's family had never been approved. That baby would have been up for grabs and she did not understand that she would have no say in the matter."

Wright appointed Fort Worth attorney Catherine Adamski to represent the baby's interests before ruling on the adoption. Adamski, who said she believed Johnson's original lawyer was "probably overstepping" legal boundaries by acting as an intermediary in the adoption, recommended that the adoption not be granted.

Adamski said she believed the doctor's motives were also improper.

"He was helping her with the decision of whether to abort or keep the baby," she said. "There was a clear conflict of interest. It's not the fact that he examined her: it's the fact that he advised her.

"I don't think he was as concerned about the child's best interests or the mother's best interests, but his own," she said. "You don't want me counseling you about things where I have a chance to gain."

The doctor, who was not formally accused by the TDHR of violating child placing laws, denied any improper conduct. His name was not published because of the sensitive nature of right-to-privacy laws regarding individuals in adoption cases.

"I didn't do anything unethical," the doctor said. "There wasn't anything unprofessional in this matter."

Walker charged that "meddling" by the TDHR was what condemned Johnson's plans for adoption.

"The department meddled into it," Walker said. "I don't think there's any gray area . . . I don't think there's any violation of the law when a lawyer handles an adoption. I think it is perfectly legal because it is the court itself that ultimately decides whether the couple are qualified or not."

Walker said that TDHR has such a strict interpretation concerning intermediaries in Texas adoptions only because "the department wants to control all adoptions," he said. "It's a matter of interpretation and there's no court that has interpreted it as the department has."

Walker said he has been helping couples find childen to adopt for more than three decades "and I can show you through 34 years of adoption on my part an awful lot of happiness by the mothers and the adopting parents."

In Johnson's case, Walker said, all the negotiations for the mother's baby were between Johnson and the doctor. "I still had not picked any couple and wasn't going to pick any couple. I never talked with her but one time and at that time I told her that I could not place the baby."

Even so, Walker defended the practice of independent adoptions and the lawyer's place—or the doctor's—in the middle.

"The lawyer doesn't place the child—he may get the two together and the natural mother has the right to choose or turn down that couple. The doctor is certainly not doing any placement of a child." Walker said.

"Every time they (the TDHR) find an independent adoption, they viciously attack not only the lawyer but the obstetrician," he said. "They never will file charges because it's just as legal as it can be. Independent adoptions are going on all over this state."

Walker acknowledged that he received a letter from the TDHR citing him with a violation of the Human Resources Code on his handling of Johnson's adoption.

"I told them there wasn't any violation and if they felt they wanted to file charges, fine. This would have been an ideal (test) case to file in court," Walker said.

The conclusion of TDHR investigators was that by agreeing to find an adoptive parent for Johnson's child, Walker had in effect gone into the business of placing a child without a license, something Walker denies.

The Human Resources Code defines a child-placing agency as anyone other than the parent or guardian who "plans for the placement of or places a child in an institution, agency home or adoptive home." The code requires that any such "agency" must have a license.

In a letter to Walker, the TDHR warned the attorney to refrain from handling other adoptions in the same manner. A source within the TDHR confirmed that Walker had been cited in 1982 for the same violation. The case involving Johnson is expected to be referred to the attorney general's office for review, the source said.

Marina Henderson, an attorney in the licensing section of the TDHR's Austin office, said first offenders under the code are normally warned by letter as Walker was.

It is extremely rare, she said, for enough evidence to surface for a criminal case. "Technically it's illegal. Practically, it's hard as . . . to prove." she said.

Next: The Edna Gladney Home in Fort Worth has been called the largest and best known maternity home and adoption agency in the nation. "The main thing they do right is to treat the women who come there very, very, respectfully," says a national expert on adoptions. Tuesday afternoon editions of the Star-Telegram will look at the Edna Gladney Home and how it works.

[From Fort Worth Star-Telegram]

GLADNEY HOME "WITHOUT PEER"

(By Carolyn Poirot)

It came as no surprise to U.S. adoption expert William Pierce that Texas set a record for adoptions in the 1982–1983 fiscal year.

"Texas happens to have the largest and best-known maternity home in the country," Pierce, president of the National Committee for Adoption in Washington, D.C., said.

"Edna Gladney is the agency that is most out of the ordinary," Pierce said. "There is none comparable in this country today . . . The main thing they do right is to treat the women who come there very, very respectfully."

Despite legalized abortion, new and better birth control methods and growing social acceptance of unwed mothers keeping their babies, the Edna Gladney Home in Fort Worth is serving more unwed mothers and handling more adoptions than ever before.

The shrinking supply and growing demand for adoptable babies has led many couples seeking to adopt to turn to the "gray market"—a market in which intermediaries rather than licensed placement agencies bring those seeking to adopt and those with babies available for adoption together, usually for a fee.

Doctors, lawyers and others operating as baby brokers in the gray market are sometimes willing to cut legal and ethical corners to facilitate adoptions. Often, the emotions of mothers with children available for adoption and couples seeking to adopt are exploited in the process.

At the Edna Gladney Home no corners are cut. Staff members are strong advocates of adoption, but they insist that all options be fully explored so that the birth mother is able to make a decision that is good for her and good for her baby. Families wanting to adopt through the home are fully investigated.

During the last 12 years—while many maternity homes in the nation were going out of business—the Edna Gladney Home was breaking ground for new buildings, including one currently under construction that will bring the total campus to 14 structures, covering a full square block of well-landscaped grounds at 2300 Hemphill St.

"We've had more girls since abortions became legal than we did before. August and September we were chuck full," said Ruby Lee Piester, who was executive director of the Gladney Home for 23 years before retiring last year to assume responsibilities for long-range planning. "Generally we work with about 600 girls a year.

"The girl is where we like to focus. When you protect the girls, you protect the others involved: the babies and the adopting parents," Piester said.

She is the first to admit her prejudice against private adoptions. They offer no protection for anyone involved, she contends.

"Adoption doesn't begin and end when a couple walk out the door with a baby," Piester said.

"Where does the birth mother go if she starts feeling lonely or guilty or starts to doubt that she made the right decision? Where do the adopting parents go for information on the birth parents? Lawyers hardly ever take the time to find out any medical or social history on the birth parents, particularly on the father.

"And what about the adopted baby? We have people visit us just so they can better understand why their mothers gave them up. We get calls from people who were adopted and know nothing about themselves or their birth parents," she said.

At Gladney the birth mothers receive a lot of counseling and education as well as room and board.

"Things have changed a lot over the years. You can't expect these girls to just go somewhere and sit for four or five months," Piester said. "Confidentiality is one of the most important things we have offered all these years, but much more openness has evolved.

"We try to help the girls with self-esteem and planning their futures. We want them to make good decisions that they will not regret," said Eleanor Tuck, now executive director, echoing her predecessor.

She related a recent visit from a woman who had had a baby boy at Gladney 16 years ago:

"She just dropped by last Friday and wanted to look around and talk. She finally said, 'Yesterday was his birthday, and I just wanted to come back here.' They can always come back and visit if they get started feeling lonely or guilty, and we will give them a progress report on their babies and answer any questions they have."

Piester said the Edna Gladney Home, founded in 1897 and chartered as Texas Home and Aid Society in 1904, has changed a lot through the years to meet the needs of a changing society.

"A lot of agencies have kind of folded up," she said. "They didn't develop into comprehensive programs. The girls were isolated and didn't get any education. We have changed a lot. Not only can the girls take their regular high school classes, but we also have college-level extension courses and career classes in computer programming. Our girls raise their grades by an average of one full letter while they are here.

"These kids are bright. They need to be challenged. They need to prepare for the future. When they are doing that they are happy," Piester said.

"Texas is the only state that has kept up with the times. There is no other state in this country with the diverse number of agencies involved in adoptions that Texas has," said Pierce, whose organization acts as the nation's first full-time lobby and clearinghouse for adoption issues.

In fiscal 1983, which ended Aug. 31, some 13,771 adoptions were completed in Texas, according to the Texas Department of Health statistics, up almost 1,000 from 1970, when the number peaked nationwide.

In 1970, there were 175,000 adoptions in this country, according to the National Center for Health Statistics. By 1974, the year the National Center for Social Statistics went out of business, the number had dropped to 149,000.

"Unfortunately we know absolutely nothing from 1975 forward. The national reporting system fell apart," said Chris Bachrach, statistician for the National Survey of Family Growth.

"We know that from 1957 until 1970, the number of non-relative adoptions ranged from 51 to 54 percent of all adoptions, and that by 1974 unrelated adoptions represented only 36 percent of the total," Bachrach said.

Pierce said that using figures from many of the states, his organization estimates that adoptions were down to 60,000 in 1983, 70 percent of them unrelated.

"Nationally it is estimated that about 30 percent of the adoptions are by relatives, and 70 percent are unrelated," he said.

At Gladney about 400 young women stayed through until the birth of their babies last year. Only 26 of them decided to keep the babies.

"Most who stay place their babies, but they all have full counseling on their options and the opportunity to see and hold their babies before they make the final decision," Piester said. "We've gotten some criticism for that. People say the girls might change their minds and decide to keep their babies if they see the babies, but we would rather them change their minds than regret it later.

"We don't allow them to sign any relinquishment papers until four days after the baby is born and they have had a good visit with the baby, unless they don't want to see it, but most of them do. We want them to be recovered well enough to make a good decision for themselves and the baby. We don't want them to end up feeling like they have made a mistake," she said.

A good percentage of the girls, even those from out of state, come back to Gladney for their six-week checkups and to get anonymous progress reports on their babies.

"We are honest with the girls. We are an adoption agency, and when we know definitely that they have made a decision to keep the baby, we try to get them back into the community support system where they will be living and prepared for parenting, which we don't do here. But we do not try to talk them out of keeping their babies if that's what they want to do," Tuck said.

"We just feel it is better for them to be somewhere else where they can develop the happy feelings that go along with motherhood if they plan to keep the baby."

Even with its steady supply of babies, Gladney cannot meet its demand.

"We probably have for each infant baby eight to 10 couples studied. They've got the nursery and they've got the diapers. They are just waiting for that magic phone call," Tuck said.

"When we invite a couple in for beginning group orientation, we are saying that we can reach them within one year, but they may have already waited one to three years before we complete the social study and invite them to orientation," she said.

Tuck admits the agency cannot serve all the couples who want a baby.

"I would say every good couple is not going to be able to adopt. There are just not enough babies. But if you want a baby, you should try to get on a waiting list at a reputable agency," Tuck said.

While there are some basic standards, there is also some flexibility in criteria for adopting a Gladney baby, Piester said.

"We are not as interested in family income as we are in how well the family managers money," she said. "We want to see a good stable marriage where the couple are prepared for the baby. If the mother works, there should be a definite plan for child care. The couple should know where they are going to put the baby and be sure that both of them want adoption equally and they're not just trying to please each other.

"We have lengthy applications that ask some soul-searching questions to make absolutely certain the couple really wants a baby for good reasons. A lot of people screen themselves out," Piester said.

Age is another factor considered. Generally, couples over 40 are not eligible to adopt a newborn baby, but Piester said Gladney places some older children for the Department of Human Resources, including 88 last year.

"If we have a couple over age 40 and it is their first child, we will probably work with them to get an older child, but it would be very unusual for them to get a newborn," Piester admitted.

"If we have a couple that already has several children, but they are willing to take a child with special needs, we will work with them also."

Current cost to adopt a baby through Edna Gladney is about $5,500.

"A recent study showed that it cost us an average of $7,600 for mother and baby care, high school and career development, delivery and other medical costs and the complete social studies we do on each family that wants to adopt," Tuck said.

"Our board considered raising the price on adoptions, but they don't want them to get so high that they are out of reach for anyone who isn't rich. Our girls pay some of their own costs on a sliding scale, according to their ability to pay, and we have to raise about $650,000 a year (through donations and fund-raisers) to cover our budget," she said.

The home that included only one large dorm and a hospital 25 years ago now has 13 buildings with ground broken this summer for another appartment complex to house 45 older girls.

"We lost some of the older girls right after abortion was legalized, but they've slowly came back, Piester said. "We probably have as many now as we ever did."

[From Fort Worth Star-Telegram]

Mexican Baby Pipeline Investigated

(By Stan Jones)

An international network that has funneled at least 100 Mexican children into the United States for adoptions has become the focus of investigations in both countries, the Star-Telegram has learned.

At the U.S. end of the pipeline, dozens of couples claim that have been defrauded out of thousands of dollars for Mexican children they never received.

From Mexico have come allegations that in those cases where children were delivered to the United States, some were obtained under questionable cricumstances. One Mexican mother claims she was deceived by key members of the adoption network into giving up her children. She said she thought the children would be placed in a school in the United States, not farmed out for adoption.

Irregularities in Mexican adoption papers also have surfaced, and the U.S. Immigration and Naturalization Service is trying to determine if Mexican mothers may have been paid to give up their children for adoption, sources said.

The Star-Telegram has learned that the owner of a topless bar in El Paso and an Arizona homemaker are being investigated for their roles as intermediaries in the adoption pipeline—and for their involvement in perhaps one-third of the entire Mexican baby adoption market over the past three to five years.

The two are Bryan Martin Hall of El Paso and Debbie Tanner of Willcox, Ariz. Neither is licensed anywhere in the United States to place children for adoption, say welfare officials in their home states. Nonetheless, officials at U.S. consulates in Juarez and Monterey, Mexico, have confirmed that Hall has been involved in most of the adoptions that have passed through their offices for approval during the last several years. Tanner, meanwhile, acknowledged that she has been involved in 200 to 400 adoptions of Mexican babies by U.S. couples.

Neither the U.S. Embassy in Mexico City nor the U.S. State Department in Washington could provide figures on adoptions involving Hall or Tanner, although a State Department source said they are tied to at least 100.

Tanner and Hall, who have not been charged with any criminal wrongdoing, say all of their activities are legal, both in the United States and Mexico.

In 45 states, private adoptions through individuals rather than licensed agencies, are legal. State laws vary, allowing intermediaries to function in different capacities. In Texas private adoptions are legal but must be arranged directly by the birth mother or legal guardian intermediaries are not allowed to participate in actual placement decisions in Texas.

Tanner said she is an adoption intermediary—a liasion—in those states where child placement licensing is not required. Tanner said she is paid by Mexican lawyers to provide names of U.S. couples interested in adoption. Hall told consumer fraud investigators in Iowa and child placement officials in Texas that his role in the network involved little more than translating adoption papers for attorneys in Mexico.

But in many interviews with adoptive couples, licensed child placement agencies, law enforcement investigators and others throughout the United States, Hall and Tanner emerge as key figures in the adoption network. Those interviewed allege that the adoption network has paid thousands of dollars to "baby finders" to recruit adoptive children from inside Mexico, deceived adoptive couples in the United States and harbored and transported illegal aliens across state lines.

A State Department spokesman, who asked not to be named, said the adoption network is being investigated by the U.S. Embassy in Mexico City and by the Mexican government.

Hall, Tanner and Becci Kelley of New Market, Iowa are being investigated by the Iowa attorney general's office, which filed a lawsuit against them in June alleging that adoptive couples were cheated out of thousands of dollars for Mexican children they never received. A temporary injunction was issued against the three in October.

As a result of the Iowa suit, the Federal Bureau of Investigation, which investigated Hall, Tanner and Kelley in 1982 but found no criminal wrongdoing, has reopened its inquiry, sources said. The U.S. Immigration and Naturalization Service and consumer fraud and child-licensing agencies in at least four states, including Texas, are looking into the activities of the three.

Inquires by the Star-Telegram reveal that:

With El Paso as its hub, the adoption pipeline extends from the Mexican borders into at least 10 states—including Iowa, Arizona, Colorado, Florida, Massachusetts California, Indiana, Missouri and New Hampshire—and has ties with many licensed adoption agencies. In Mexico, it involves several lawyers and doctors and individuals described as contacts in that nation's interior. The contacts seek out Mexican children for adoption.

Tanner, whose home in Arizona is 77 miles from the Mexican border, is the key U.S. link in the network. She finds couples in the United States interested in adopting Mexican children and refers them to Hall or attorneys in Mexico.

Hall, who owns the Latin Lover Lounge in El Paso, works with contacts in Mexico to find children. Much of the money that couples pay for a Mexican child—ranging from $5,000 to $6,000 per couple—is funneled through him.

A source with the U.S. State Department said the majority of the recent Mexican adoptions associated with Tanner or Hall have been funneled through a single Mexican judge in the city of Agua Prieta, on the Arizona-Mexico border. Most of the children were from Juarez and Torreon, the capital of the Mexican state of Durango, about 250 miles south of Juarez.

Juarez attorney Jorge de la Madrid Peraza apparently has been handling the legal paperwork filed in Agua Prieta, the source said, although the name of another Juarez attorney, Lorenzo Prospero, has appeared on some of the papers.

The source said the paperwork "appears to be pretty legal."

At least 50 U.S. couples seeking Mexican childern were referred to Tanner or Kelly by licensed U.S. adoption agencies even though neither Tanner nor Kelly is licensed to handle child placement in any state.

Couples were told by Tanner and Kelly to use the name of a fictitous Mexican lawyer as their intermediary when applying for adoption, documents obtained by the Star-Telegram show.

An investigation by the INS office in Omaha, Neb., is focusing on whether some of the Mexican childern adopted by U.S. couples were orphans when they were put up for adoption. An immigration offical, who asked not to be identified, said irregularities in some adoption documents prepared in Mexico prompted the investigation. Those documents surfaced in connection with the Iowa lawsuit.

"As this thing unfolds, I am very interested to see if the documentation was fraudulent," the official said.

The Texas Department of Human Resources unknowingly came across Hall in April 1981, when an Indiana adoption agency asked the TDHR to research a Juarez lawyer named "Sr. Lopez." The name was the same as the fictitious one given couples by Tanner and Kelly. A Juarez post office box was rented in that name by Hall, said Dick Johnson, a TDHR official. Hall since has admitted that the attorney doesn't exist.

The TDHR reopened its investigation this summer to determine whether Hall has violated state child placement laws, Johnson said.

Hall was deported from Mexico in 1980 and told never to return, according to a state prosecutor in the Mexican state of Chihuahua and an official with the U.S. Embassy in Mexico City.

The deportation came after Juarez police arrested Hall in June 1980 and found $7,000 cash in his briefcase. Hall said he was taking the money to Torreon to pay a "finder's fee" to a source who had located three children for adoption. The money had come through Tanner from couples in the United States, Hall said.

Charges of depriving orphans of their freedom, brought by Juarez police within days of Hall's arrest, were dropped for lack of evidence, according to the secretary of the Chihuahua court where the case was filed. But Mexican immigration officials fined Hall 10,000 pesos and deported him for handling adoptions without authority, Hall said.

In several documented cases, including one involving a Bedford couple who paid over $6,000 to Kelly, couples never received the babies they were promised. Records obtained by the Iowa attorney general indicate that Kelly sent most of the money to Hall. The Bedford couple did receive a birth certificate of an infant Mexican national in March 1983 but never got the baby. The money was never returned.

A California attorney who handled several adoptions of Mexicans through Tanner is under investigation by the California State Bar, sources said. The nature of the investigation is unknown.

In Albuquerque, N.M., an illegal alien who is the mother of four children says Hall and Mexican attorney Prospero duped her into giving up her children for adoption through a promise to bring her into the United States.

"I think frankly that if we go deeply into this, we've going to find a lot of people like my client," said Josephine Rohr, the woman's lawyer. Rohr says that although her client, Ermilia Hernandez, did sign papers terminating her parental rights to her children the documents were in English and she didn't know what they said.

Both Hall and Prospero, who admit they kept the women in their homes on both sides of the border during 1980, say Hernandez willingly gave up her childern.

In an interview at his El Paso home, about 200 yards from the Mexican border, Hall at first said he was a translator for several attorneys in Mexico. He later acknowledged a much larger role in Mexican adoptions but denied any wrong doing.

"We have not intentionally or in any way tried to defraud people." Hall, 37, said.

Tanner, 34, who described the adoptions in which she has been involved as "parent-initiated, private foreign adoptions," said she helped develop the adoption system and acknowledged she was a main source of U.S. couples for lawyers in Mexico.

The various investigations, she said, will turn up nothing improper. "I know it's not improper," she said. "There's no way you could do (Mexican adoptions) improperly."

She said the allegations of fraud in Iowa were designed to stop Kelley's activities, not hers or Hall's. She said an attorney with the Iowa attorney general's office told her "we have to involve you because right now. It's (Kelley's) word against the Mexican attorneys."

The attorney general's office denied that such statements were ever made.

Tanner said she made no money from adoption referrals until last year, when she began charging the attorneys in Mexico $300 a month. In years past, she said the attorneys paid her telephone bills.

Prospero, described by both Tanner and Hall as the main lawyer in the pipeline, said his only responsibility was to process adoption papers through the courts. He said the adoption network is operated by Tanner and Hall.

Prospero said he no longer works with Hall or Tanner because "they have given me too much problems."

Filis Casey, director of Alliance for Children, a Massachusetts adoption agency, said her impression was that "Hall was finding the children and that Prospero did the (legal) work. In Mexico, it would be very unusual for a lawyer to make those contacts."

Casey said Alliance for Children stopped using the adoption network because "we just felt the communication was too difficult. We weren't working with the kinds of professionals (we wanted to)—and we just didn't want to subject our couples to that."

Hall and Tanner said they also are getting out of the business. Hall said he still has at least 22 adoptions to be completed before he devotes all his time to his El Paso lounge.

Until their network began tapering off, Hall said he and Tanner were able to find hundreds of adoptable children in a country that has approved only 533 such adoptions into the United States since 1978. Hall said that when he began handling Mexican adoptions in 1980, he "literally started beating the streets" in search of adoptable children.

"Unbeknownst to me, I was breaking the law." Hall said, by recruiting children for adoption without authority.

Hall said he does not know if his contacts may have been violating Mexican law in their child recruiting efforts.

He acknowledged, however, that the bulk of the money North American couples pay for a Mexican baby goes to pay a "finder's fee." He said it is not unusual for a Mexican doctor to receive between $2,000 and $2,800 for referring Mexican children for adoption.

Part of the finder's fee goes to paying certain medical costs and room and board for the mother, Hall said.

"My basic impression was that they were able to find children," said Casey, whose agency helped three or four couples adopt Mexican children. "I got the idea that there were large numbers."

Hall said most of the children are obtained from prostitutes in Torreon.

"These are children that are coming from the bottom of the barrel," Hall said. He said that Viola Anthony, a North American living in Durango, helps locate many of the children for adoption. She could not be reached for comment.

Hernandez said it was Anthony who introduced her to Hall and helped talk her into signing the papers relinquishing her four children.

Adoptions between the United States and Mexico require extensive paperwork and must be approved by the Mexican government and one of the U.S. consulates in Mexico.

Officials at consulates in Juarez and Monterey, which grant adoption visas to Mexican children, said Hall appears as an intermediary in the majority of the cases they process and the paperwork has always been in order.

"Most of the (adoptions) we get come through him (Hall)," said Nancy A. McKee, chief of the visa section at the consulate in Juarez. She said the number of adoptions involving Hall has raised questions "but not enough to initiate an investigation."

State Department officials in Mexico City and in Washington, D.C., could not provide the number of adoptions of Mexican nationals in which Hall or Tanner were involved.

U.S. State Department officials and INS agents in Mexico are responsible for verifying the adoption papers of Mexican children before granting them visas.

INS officials concede that the adoption papers are almost impossible to verify at the embassy level. The agencies must depend on Mexican government officials who process the initial paperwork to ensure that the children meet the requirements for adoption.

Monday morning: A lack of coordination hinders investigations by governmental agencies; the promise of a Mexican baby turned from prospective joy into a nightmare for a Mid-Cities couple desperate to adopt.

[From Fort Worth Star-Telegram, Dec. 15, 1983]

Adoption Service Under 2-Part Inquiry

(By Stan Jones)

Although there are a variety of investigations under way into the activities of a network that brings Mexican children into the United States for adoption, most focus on two seemingly contradictory facets of the operation.

On one hand, state and federal officials in the United States are looking into allegations that the international adoption network in which Bryan Martin Hall of El Paso, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa, were involved took thousands of dollars from U.S. couples and failed to deliver children of adoption.

On the other hand, Hall and Tanner are being investigated by the U.S. Immigration and Naturalization Service, the U.S. State Department and Mexican government officials because their adoption operation has obtained so many Mexican children that questions have been raised about how the babies are obtained.

The state of Iowa has claimed that at least 28 couples in seven states—Florida, Iowa, Massachusetts, Connecticut, Maryland, New Hampshire and Pennsylvania—sent between $5,000 and $6,000 each to either Kelley or Tanner for Mexican children they never received and were never refunded the money.

The couples said they were referred to the women either by World Adoption Services in Newton, Mass., Alliance for Children in Mead, Mass., Sun Coast International Adoption agency in Belaire, Fla., or by word of mouth. Kelley, who, without state licensing, has used the names Becci Kelley Adoption Service and First Choice Adoption Service in Iowa, also placed ads in newspapers in at least three states seeking adoptive parents.

Jane Pearce, director of Sun Coast International, said Kelley was recommended to her "by a very reputable adoption agency," which she refused to name. She said she assumed that both Kelley and Tanner were licensed to place children in the states where they lived.

Kelley said she was the East Coast representative of the Mexican adoption network and said Tanner handled West Coast operations. Tanner and Hall also had extensive connections in Mexico, Kelley said.

Records obtained from Kelley by the Iowa Attorney General's office show that the couples paid their money to either Kelley or Tanner and most of it was forwarded to Hall in El Paso.

Information packets sent to the adoptive couples promised only a three-to six-month wait for a Mexican child.

A Pennsylvania social worker who recommended several couples to Kelley and Tanner called the network a "scam." The woman, who asked not be identified, said she had heard in April 1980 that Kelley could find Mexican children for adoption. She referred one couple to Kelley "to see how it went." The couple received a child within three weeks, the social worker said.

"So I referred five more couples over the next two to three months," said the social worker, who independently adopted a Mexican child eight years ago. "None of those babies came through. I was in touch with Tanner on a daily basis for a period of six or eight months . . . within about three months I was quite sure this was a rip off.

"I urged my couples to ask for their money back but adoptive parents, once they think there's a baby, they attach to that kid," she said. The social worker said she eventually hired a Mexican lawyer who was able to get the money returned to the couples.

"I think you're really dealing more with a scam, a really organized scam to get an amount of cash and use it and not return it," the social worker said. "They have hurt people who are so darned vulnerable."

The Iowa attorney general's office charged that in many cases, the Mexican children that were promised to American couples did not even exist.

"The defendants' persistent course of conduct . . . were intentionally designed to play on deeprooted and understandable human emotions of childless couples desperately desiring and seeking to adopt infants and small children," says a suit filed in June 1983 by the Iowa Attorney General's office.

Hall acknowledged in a recent interview with the Star-Telegram that in many of the cases being examined by the Iowa Attorney General, the children may not have existed. Hall said that without his knowledge, Kelley frequently promised specific children to couples.

"(Kelley) is not dealing honestly with the people," Hall said. "I have had several couples say, 'What happened to my child that was born six months ago,' and all I could say was I don't know what you're talking about . . . Kelley was absolutely running her own show."

Hall, however, did admit participating in a fabricated segment of the adoption operation. He said that he and Tanner made up the name of an attorney used on documents Kelley and Tanner sent U.S. couples. The couples were told the attorney, "Sr. Lopez," was acting on their behalf in Mexico.

Hall said he and Tanner invented the name because the real attorneys who handled the adoption paperwork did not want to be bothered by impatient couples.

"Lopez doesn't exist," Hall said. "My dealings were with contacts in Mexico—that was my part of the work. Debbie's part of the job was to get the people (couples wanting children). Lopez came in to play because these people wanted a name . . . so the name was just made up."

When the Iowa allegations surfaced, Hall responded to the charges with several letters supposedly written by attorney Lorenzo Prospero in Juarez and translated by Hall. The attorney denied ever seeing the letters.

Prospero said he handled about 20 adoptions for Hall and Tanner. Prospero said his function was strictly as an attorney and "it makes me mad that they have involved me in this." He said he, too, doubts some of the babies promised ever existed.

"(Hall and Tanner) have a lot of contacts here in Mexico and they say they have the babies," Prospero said. "I don't think so, where?"

"I knew there was something wrong because there was only one or two babies per month (for adoption), but I saw that Tanner had 20 people on her list (to get babies) and I would ask myself where would they get the kids," Prospero said.

Hall said he and Tanner use at least six other attorneys besides Prospero to handle adoptions.

"All over Mexico and in fact right now, there are still six other attorneys besides Prospero that are doing adoptions for people that are coming through me or Debbie," Hall said.

Hall said he has disassociated himself with Kelley and blames her for the allegations raised in the Iowa lawsuit.

Kelley, contacted by telephone in Iowa, claimed that she was only a small part of the Tanner-Hall operation and that "if my adoptive couples were defrauded, then definitely I was defrauded."

Kelley said that of the money collected from the couples, she kept only $700 each as her fee. The rest went to Hall in El Paso.

"The first few went very smoothly," she said. "Why would I have any reason to believe they were not on the up and up . . . as time went on, it became more difficult to get the babies promised.

"If you want to know what really happened with the Mexican babies," Kelley said, "ask Debbie Tanner. She worked with the Mexican attorneys providing the babies. She was the direct contact, the liaison for the Mexicans."

The network's methods of obtaining children for adoption has become the primary thrust of an investigation by U.S. Immigration and Naturalization officials in Nebraska, sources close to the investigation say.

Agents are trying to trace birth certificates and other documents in an effort to locate the biological mothers of Mexican children the network has delivered for adoption.

The Star-Telegram obtained birth certificates and parental termination papers on two Mexican children that were handled through Hall and Tanner. On one certificate, the date and place of birth differed from the information provided on the parental termination forms.

Hall said discrepancies occur because biological mothers don't want anyone to know where they actually live because of the stigma of being an unwed mother in Mexico. So, they lie on the documents, he said.

"I have some problems with the paperwork," Hall said. "We have had problems when mothers would go to register their child. She may have lived in Lerdo but gave birth in Torreon. Doctors don't register the child, the mothers do."

Hall said he suspected that most of the addresses listed by unwed mothers are fictitious.

"These little gals, they can return (to their hometowns) without that child and be accepted. Are they going to put down their real address," Hall said.

Hall denied that unwed mothers are paid to give up their children. He said that in 1982, allegations of buying Mexican children were leveled against Prospero by an American angered over the slow pace of an adoption.

Hall said Mexican federal agents "went to court and pulled out every adoption that Prospero had done.

"We came out clean on every one of them," Hall said.

Hall acknowledged, however, that the investigation worried him because he could not be sure about the methods employed by his contacts in Mexico.

"We were a little concerned," he said. "We were thinking, hopefully, one of these contacts didn't go out and buy a child because we'd all be in trouble."

Prospero denied that he was ever arrested or investigated for his role in Mexican adoptions.

[From Fort Worth Star-Telegram]

Everyone Blaming Others in Adoption Network Fiasco

(By Stan Jones)

Telling the story of their involvement in an international adoption network, Bryan Martin Hall, Debbie Tanner, Becci Kelley and Lorenzo Prospero agree on only one thing—matters got out of hand.

None, however, agrees on how or why—each frequently blaming the other for creating problems that have made them the subjects of numerous investigations.

Debbie Tanner, 34, who now lives in Arizona with her husband and six children, said the adoption network she helped establish to channel Mexican children to prospective parents in the United States, grew from personal frustration.

For two and a half years she struggled with red tape and anguish to adopt two Mexican children, Tanner said. That was eight years ago.

In 1977, she got them, but only after establishing Mexican contacts that she says have benefited hundreds of other American couples since.

"I knew there were unwanted children down there" and scores of American couples wanting to adopt, she said. What was missing in 1977 was a system to bring the two together, she said.

Tanner contacted several Mexican attorneys she had worked with on her own adoptions and asked them to develop information packets for couples in the United States, she said.

The attorneys had contacts with doctors, midwives and nurses in Mexico who kept them aware of available babies, she said.

As word of her Mexican contacts filtered into the national adoption circuit, she was besieged with telephone calls at her former home in Cortez, Colo., Tanner said.

At first, she referred callers directly to the Mexican lawyers, she said. But the lawyers "really don't like to speak with the couples" and she soon found herself working as a legal intermediary, Tanner said.

Bryan Martin Hall, originally a logger from northern Arizona, said he entered the adoption picture in February 1980 when he went to El Paso, and with his command of the Spanish language he became a translator for Mexican attorneys and helped locate adoptable children for Tanner.

Hall said he worked with Tanner's Mexican contacts who located the children and with the Mexican attorneys who processed the paperwork in court.

But the stories of Hall, Tanner and the others become contradictory from that point on.

Lorenzo Prospero, a Juarez attorney who has handled several adoptions in which Hall and Tanner were involved, said Hall and Tanner didn't really work for Mexican lawyers. Prospero said it was the other way around.

"When I was working with Debbie Tanner and Martin Hall, they had the contacts," Prospero said. "I didn't have any contact. I was only the lawyer.

"She (Tanner) found the babies and she found the lawyers," he said.

Prospero, who said he began processing adoptions through the Mexican courts for Tanner and Hall in mid-1981, said Hall paid him for his services.

Tanner said she made no money for referring couples to Mexican lawyers until this year, when she began charging $300 a month. Hall, however, said Tanner had been making a $500 referral fee for each adoption she handled.

Hall acknowledged that the money—$5,000 to $6,000 each—furnished by U.S. couples to process adoptions passed through his hands.

Hall said about $2,500 was for a "finder's fee," and included medical expenses for the delivery of the child. Between $500 and $1,000 went to the attorney, $500 to him and $500 to Tanner or Kelley, Hall said. The rest went for travel expenses and care of the child after birth.

Tanner denied handling the cash flow from adoptive couples into Mexico.

Kelley said she worked through Tanner to provide Mexican children for couples in the United States. Several U.S. couples claimed Kelley promised them children that were never delivered and cheated them out of between $5,000 and $6,000. Kelley blamed the problems on Tanner.

Tanner said she became caught in the middle of a "mess" that Kelley created

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[From Fort Worth Star-Telegram, Dec. 25, 1983]

One Mother's Desperate Search

(By Frank Trejo)

Albuquerque, N.M.—Ermilia Hernandez is a desperate woman who crossed the border illegally from Mexico on a mission to regain custody of the four daughters who she says were taken from her through trickery and farmed out for adoption in the United States.

Only if she succeeds will she be able to win back her self-respect, said the 32-year-old undocumented Mexican national, who admits she is frightened, ashamed and embarrassed by what happened to her.

Because of the shame that grips her, it is a situation that Hernandez has been unable to discuss even with her closest family members.

"It has been very difficult for me to tell them, for me to tell anyone," Hernandez said amidst a constant stream of tears. "I feel they would not understand. People have such different thoughts. I didn't want anybody to judge."

Hers is a story of frustration and determination.

Earlier this year, Hernandez entered the office of Albuquerque attorney Josephine Rohr and placed a savings account book on the lawyers' desk. The book, Rohr said, showed that the woman had a $2,000 bank account.

"It (the money) had been accumulated over a two-year period, in deposits of $30, $40, or $50 every two or three weeks," Rohr said. "That seemed to bear out what she had told me, that she saves half of what she makes, to find her children."

"The search for my children is really the only thing that keeps me alive," Hernandez said. "I'm at work. I'm at home and nothing means anything to me. Not food, work, money, nothing. My daughters are all I can think about."

Hernandez blames herself for trusting persons she knew only slightly. Among them are Bryan Hall of El Paso and Debbie Tanner, whose last address was Willcox, Ariz. Hernandez claims that Hall, Tanner and others played on her lack of education and her inability to understand English to trick her into giving up her four daughters for adoption.

Hall and Tanner are under investigation by the Iowa attorney general's office as part of a consumer fraud suit against an adoption service they operated. At this time, that investigation doesn't involve the Hernandez case.

Although they acknowledge having had dealings with the woman, Tanner said she only tried to help Hernandez, and Hall denies that he tricked or forced her into giving up her children.

"She was asked on many occasions, 'Do you know what you are doing?' Hall said. "She was not forced, coerced or lied to in any way."

"I don't remember her ever wanting her children back," said Tanner.

Hernandez's story begins in November 1980.

She was pregnant with her fourth illegitimate child and working at a chicken farm outside Saltillo, in the Mexican state of Coahuila. She fed chicken, made sure they had water and collected eggs.

When it got close to her due date, she had to quit work.

Hernandez said that after leaving the farm, she was befriended in Saltillo by a North American woman, Viola Anthony. Anthony, Hernandez said, told her she could move into her home and work as a housekeeper.

Anthony could not be reached for comment.

"After my baby was born (Dec. 30, 1980), she (Anthony) started talking to me, asking me how I was going to be able to support these children and saying that she could help me find a way to help the children," Hernandez said.

Hernandez said that, by early 1981, men she identified as Martin Hall and Lorenzo Prospero, came to Anthony's house and talked with her. The men, Hernandez said, told her they would be able to help her get her children across the border into a U.S. school.

"They said it was a school where the children would have to stay, but that I would be able to visit them on weekends," she said.

Eventually, Hernandez agreed, believing it would mean a better life for her children. She said she went to Ciudad Juarez, Mexico, across the border from El Paso, where she was asked to sign papers written in English.

"Sometimes they told me to go with them to a judge to sign some papers, but they told me not to say anything, that they would take care of everything," Hernandez said.

In mid-March 1981, she said, her children crossed the border into El Paso. She followed a few days later. The children, she said, left El Paso with some North Americans who were to act as their parents in case they were stopped by INS officials.

That was the last time Hernandez saw her four daughters, ages 9, 8, and 2 years old, and a 3-month-old infant.

Hernandez said that eventually Hall sent her to the Cortez, Colo., home of Debbie Tanner, where she stayed for 20 days, working as a housekeeper.

"It was there where I came to realize that my children were not in school and that they were not going to let me see them, that my children had been taken," Hernandez said. "I became very upset and would not work because I spent all my time crying. I did nothing but cry for many days. I felt so alone."

Hall said Hernandez worked as a maid for another family in Colorado, not Tanner's and that Tanner finally took her into her home because the women did not want to work.

Tanner said Hernandez never stayed with her.

Hernandez said Tanner eventually placed her on a bus back to El Paso, where she learned, after talking to Hall and Propero, that the children had been given up for adoption and that Viola Anthony had been paid $4,000.

Hall said Anthony wanted to be compensated for the time Hernandez and her children spent with her.

"When I heard that I wanted to go back (to Saltillo), find Viola and kill her, really kill her, I felt such anger," Hernandez said.

"I'm very confused, because I don't know if it is my fault or what," she said. "One thing that I know from my heart is that I did not give up my children."

Rohr blames her client's problems on a lack of education. The Albuquerque lawyer said Hernandez does not read or write English. Although she does read and write in Spanish, she only has a third-grade education, Hernandez said.

Hall contends Hernandez does know how to read well in Spanish. She spent most of her time reading Spanish novellas while she was at his home, Hall said.

Hall said Hernandez sometimes was unsure of herself—she backed out of the adoption deal twice—but finally agreed to give up her children.

Hall said that when the adoption papers were prepared for signatures, a Mexican notary public questioned Hernandez extensively.

Hall said Viola Anthony originally had contacted him and Prospero because Hernandez had said she wanted to give up her newborn baby. Later, Anthony told him that Hernandez began talking about giving up her other children, too, Hall said.

Hernandez said she returned to Albuquerque and worked as a housekeeper for a woman she met at an El Paso bus station. She said she was paid $20 a week for nine months. She now works part-time as a waitress at an Albuquerque Mexican restaurant and sells cosmetics to her neighbors.

Hernandez said that while she has five brothers and seven sisters in Saltillo only one sister knows of her plight.

"My brothers and I did not get along because I left the man who was the father of my (youngest) daughters," she said. "They felt I should have stayed with him so he could support me. As far as the rest of my family believes, everything is fine. They believe I am here with my girls and that we are living a much better life than we used to.

"I haven't told them because I know they would suffer. They would suffer because they cannot help me," Hernandez said.

Hernandez vowed to continue her fight.

Rohr said the Iowa attorney general's office has asked Hernandez to submit an affidavit as part of the investigation in that state. Rohr expects to file the affidavit before the end of the month.

Hernandez looked at the new carpet on the floor of Rohr's office recently and shook her head. She clenched her fists.

"Before this happened, I guess I thought of myself, as a very simple, good, even noble person. I never thought bad of anyone." Hernandez said. "But now, everything has become evil for me. I have such hate and rancor that I cannot contain it. I have a thirst for vengeance that I never thought I would have."

[From Fort Worth Star-Telegram, Dec. 26, 1983]

Adoption Practices Go Uninvestigated

(By Stan Jones)

Although these are thousands of U.S. couples willing to pay large sums to adopt healthy babies, governmental agencies have shown little interest in coordinating investigative efforts focusing on irregularities in a network that has been delivering Mexican children for adoption in this country.

An agent with the U.S. Immigration and Naturalization Service in El Paso said baby selling and other questionable international adoption market practices are so prevelant that many possible irregularities go uninvestigated.

That is why the existence of an adoption network involving an El Paso businessman, an Arizona homemaker, an Iowa woman and several Mexican lawyers apparently went unnoticed for years even though complaints regarding it surfaced in early 1981.

The U.S.-Mexico adoption network, which has worked with private adoption services in a number of states, is operated by Bryan Martin Hall of El Paso, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa, procuring children—for fees ranging as high as $7,000—for couples in the United States.

In April 1981, the Texas Department of Human Resources was asked to investigate a Juarez, Mexico, attorney known only as "Sr. Lopez" regarding the planned adoption of a Mexican child by an Indiana couple.

The TDHR wrote to the Juarez attorney's El Paso post office box. In August 1981, the department received a letter, signed "Lopez" (no first name given), claiming no knowledge of adoptions.

The TDHR dropped its investigation. It was not until much later that it was learned that "Lopez" was a fictitious lawyer invented by the operators of the adoption network.

In February 1982, the FBI began investigating complaints that U.S. couples attempting to adopt Mexican orphans through the Hall-Tanner-Kelley network were being cheated out of thousands of dollars.

A yearlong investigation failed to produce results.

Also in 1982, INS agents received tips that mothers in Mexico's interior were being paid cash to give up their children for adoption in the United States. The babies, agents were told, were being funneled through an El Paso adoption service. The allegations, made by informants in Mexico, were never investigated.

On June 7, 1982, the Iowa attorney general's office began investigating similar claims of fraud involving Hall, Tanner and Kelley.

That investigation culminated in June in the filing of a consumer fraud suit in Iowa state court alleging that the three were cheating couples seeking to adopt children. The couples, the suit alleged, each paid between $5,000 and $6,000 to the three but never received children or refunds.

In October an Iowa judge issued a temporary injunction prohibiting the three from operating in the manner alleged by the suit. A hearing on the permanent injunction sought in the suit has not been scheduled.

The Iowa injunction, however, carries no weight outside that state.

To date, none of the investigations has resulted in criminal prosecution or allegations that the participants broke the law.

Hall, Tanner and Kelley insist they have done nothing wrong by acting as intermediaries in the adoptions of children from Mexico.

Adoptions between the United States and Mexico require extensive paperwork on both the adoptive parents, and the child and must be approved for adoption by the Mexican government and one of the U.S. consulates in Mexico.

Nancy A. McKee, chief of the visa section at the U.S. Consulate in Juarez, said that while most of the adoptions her consulate had granted have involved Hall, she had no reason to alert the State Department because the paperwork always appeared to be in order.

A woman in the visa section of the U.S. Consulate in Monterrey, who refused to be identified, acknowledged that Hall's name appears on most of the adoptions processed through that office.

State Department officials in Mexico City and in Washington, D.C., were unable to give an accurate accounting of the number of Mexican adoptions in which Hall or Tanner were involved. The FBI investigation, conducted between February 1982 and February 1983, was to determine if Hall, Tanner or Kelley violated federal mail fraud statutes through their adoption practices.

Ronald A. Hoverson, agent in charge of the El Paso FBI office, said the investigation turned up nothing. It focused on "in excess of 10" adoptive couples who were trying to get Mexican babies through Hall, Tanner and Kelley.

"The bottom line is the U.S. attorney's office in El Paso looked at it and said there's no violation of federal law, so we closed our case," Hoverson said.

An FBI source close to the investigation said the case was closed after several couples—who had complained of being defrauded of about $5,000 each for children they never received—hired a lawyer and won refunds.

Hoverson acknowledged that the investigation did not examine involvement of Hall, Tanner or Kelley in hundreds of other Mexican adoptions.

"I'm not aware that we had that information," the FBI source said.

An investigator for the U.S. immigration office in El Paso said he received tips from informants that people in the interior of Mexico were paying unwed mothers to give up their children for adoption. The investigator, who asked not to be identified, said the tipsters named Hall.

"They had told me in essence that the children were purchased from unwed mothers," the investigator said. He said, however, that "the leads got cold" before he could investigate.

Gary Moore, an investigator for the El Paso INS office, said that "baby selling is a common thing down here. There's so much of it, and we're so bogged down with other administrative types of cases that this really is not foremost in our minds right now. "If we catch it, we'll do something about it, but we really don't have the time to go out and look for this stuff," Moore said.

Despite its 1981 attempt to locate attorney "Lopez" in Juarez, the TDHR did not learn until this year that the post office box rented in that name actually belonged to Hall, said Dick Johnson, a TDHR licensing supervisor in Austin. Hall has since admitted that the attorney never existed.

"Bryan Hall's name was never associated with that (investigation)," Johnson said. At that time, he said, the TDHR had no reason to believe that the ficticious attorney was not legitimate.

The TDHR has since reopened its investigation to determine whether Hall may have violated state child placement laws through his role in the Mexican adoption program.

Johnson said that in general, if a Texas resident takes an active role in adoptions, even on an international scale, a child placement license is required.

"If someone were planning for adoptive placements and they were in Texas, that could be seen as violating child placement laws," Johnson said. "The problem is establishing that that's what the person is doing."

A source familiar with the TDHR investigation said Hall claimed he has been acting as a translator of Mexican adoption papers and has not taken an active role in them.

[From Fort Worth Star-Telegram, Dec. 26, 1983]

HEARTACHE—COUPLE'S WAIT TO GET BABY PROVES BOTH FRUITLESS, COSTLY

(By Carolyn Poirot)

The promise of a Mexican baby turned from prospective joy into a nightmare for a Mid-Cities couple desperate to adopt.

They decorated their nursery all in rainbows for the baby boy whom they were told in June 1982 that they would soon receive.

Later, when the boy never came, the couple celebrated with a baby shower for the tiny, dark-haired girl they were told would be in their home by Father's Day 1983. She also, never arrived.

The second disappointment was perhaps worse than the first. The couple, then living in New Hampshire, were not only assigned the baby girl, whom they named "Julie," but the husband saw her. On a visit to Juarez, he held her, fed her a bottle, took several dozen color snapshots and made a video tape of the infant dressed in the pink jumpsuit and ruffled bib he had brought with him.

After almost two years of delays and excuses, scores of long-distance telephone calls and payments totaling $7,700, the couple withdrew from the Mexican adoption program, which they said caused them too much heartache and anger.

"What a nightmare," said Kaye Jones. "The whole thing is so sad. I've never felt so much hatred as I did for those people who would tell you anything to get your hopes up."

"You stop thinking rationally and start doing everything on feelings," Don Jones said. "If you believe there's an outside chance that maybe this time you might really get your baby, you'll do anything. At the time we sent the last $1,000, we knew that people were losing their money, but we just wanted her so badly."

The Joneses, who asked that their real names not be used, recently moved to the Mid-Cities from New Hampshire, where for almost two years they were involved with World Adoptions, one of only two licensed adoption agencies in that state.

Despite the headaches, heartbreaks and frustrations, the Joneses admit that they were so desperate for a child that they did not give up on World Adoptions until Kaye Jones became pregnant after minor corrective surgery and gave birth to a healthy baby girl earlier this month.

At least 19 other couples involved in the same program through several different adoption agencies lost an average of $5,000 each and did not receive a baby according to affidavits filed with a lawsuit brought by the Iowa attorney general's office in June.

Through World Adoptions the Mid-Cities couple came into contact with Becci Kelley, Bryan Martin Hall and Debbie Tanner, who were acting as intermediaries in arranging adoptions out of Mexico for World Adoptions and other agencies.

While spokesmen for World Adoptions could not be reached for comment, Filis Casey, executive director of Alliance for Children, a Massachusetts agency involved with Mexican adoptions, said she stopped working with Kelley more than a year ago.

"There were questions about what the people (Kelley, Hall and Tanner) were like." Casey said. "There were a lot of promises made that weren't kept. As far as we were concerned there was a lot of misrepresentation.

"But, there were some children that their papers did come through and they were through the courts and went through the consulate in Juarez and they were approved on both of those levels," Casey said. "There were some that worked."

Hall, who Don Jones said insisted that he was only an interpreter for the Mexican lawyer involved in the program, told the Star-Telegram that the Joneses' adoption was final July 16, and he produced the adoption papers to prove it. He said the family would have gotten the baby girl had they not been so impatient and withdrawn from the adoption process.

The Joneses, however, say that is not so.

"I talked to him (Hall) July 21, the day our phone was installed here and he didn't have any papers," Kaye Jones said. "He was still giving us the same old story that it would be two or three more weeks. If he had the papers then, why did he say it would be a couple of more weeks before the paperwork was complete?"

In late July, when they withdrew from the program, Kaye Jones was five months pregnant and a social worker from World Adoptions had just called to tell them that because of legal difficulties, their Mexican program was changing lawyers, she said.

"She read me a letter from Bryan Hall (he later told them that the letter did not apply to them) that said they were having problems and, in effect, having to start all over, and it would be four to six months before we could get our baby," Kaye Jones said.

"Kate (the couple's biological baby, who was born earier this month) was coming and all our hopes and emotions were tied up with Julie. It didn't seem fair to either of them.

"We have a closet full of pretty little ruffled dresses and playsuits that were all bought or given to us for Julie," she said. "My friends had a baby shower for me, and we sent copies of Julie's picture to family and friends all around the country.

"They must have thought we were crazy. First we told everyone about the baby boy we were getting, then we told them we were getting a little girl and even sent them pictures of her. We were doing everything to get ready for her when we found out there was another delay and we might have Kate before we got Julie or they might both get here at the same time."

When they asked for their money to be returned—including a $500 application fee, $5,200 for the adoption, including medical and legal expenses, and $1,000 for foster care in addition to the $1,000 they paid for the initial home study—the couple was told that most of it had gone to cover work already completed. However, they were told that they might get back the portion covering medical expenses, since whoever ended up with Julie would be expected to pay that, the Joneses said.

"Hall said we would hear from (Juarez) attorney (Lorenzo) Prospeo on that, but of course, we never have," Kaye Jones said

The Joneses said their relationship with the international adoption network operated by Hall, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa, was a continual saga of problems.

"On June 20, 1982, the agency called and said they had wonderful news," Kaye Jones said. "They had a little boy for us. He was born that week, and they said it shouldn't be more than four months before we had him home."

Their application fee of $500 had already been sent to Kelley, and they sent her the $5,200 the day they were told of the baby boy, Kaye Jones said.

The Joneses, who first contacted World Adoption in October 1981 and applied for a baby in February 1982, were told not to contact Kelley directly, but to work through the agency.

"It was kind of strange because we were told not to call her, but to send her the $5,200 and then she called us to say that she was going to Mexico and maybe could get us a baby even quicker through something she called a 'government adoption,' " Kaye Jones said. "She asked if we were set on getting the little boy we had already heard about, and we said it didn't matter if it were a boy or a girl, just whatever baby we could get the quickest."

The Joneses didn't hear from Kelley again until they contacted her in September 1982. At the time Kelley told them that she had been unable to obtain the government-adoption baby, but there was hope for another soon and she promised to keep them informed, the Joneses said.

"She said then that Bryan Hall and Debbie Tanner wanted us to have the youngest baby possible and it should be within six weeks," Kaye Jones said.

Because it was also getting close to the time when the originally promised boy was to be ready for delivery, the Joneses went out and bought a crib, a changing table, diapers and lots of baby things, they said.

"We got our nursery all fixed up," Kaye Jones said. "We papered the room all in rainbows. Then we sat and waited."

Finally, in December, they received a registered letter from the agency.

"I just knew it was the baby," Kaye Jones said. "I was so excited, but I wouldn't let myself open it until my husband got home.

"Then the bombshell hit."

The letter was to announce a meeting Dec. 14, 1982.

At that meeting the Joneses and 13 other couples awaiting children from Mexico were told that World Adoption had no idea if there even were any Mexican babies or if they would get any of their money back.

At last count, only three of 15 couples who have worked through World Adoptions have received Mexican babies.

"When the social worker from World Adoptions told us about the Mexican babies, the first couple had just gotten theirs very quickly and everyone was real excited about it," Kaye Jones said.

"She said they were getting babies out of Mexico in three to four months. Then almost a year later, right before Christmas, they tell us they don't know if any more babies even exist."

The couples were told that they could continue with the Mexican adoption program and wait until more youngsters became available.

In the meantime, Kelley called several times to tell the Joneses about babies available through her domestic adoption program: blond, blue-eyed babies that might cost them $10,000.

"I told her we didn't have that much money and that I didn't think that even sounded legal," Kaye Jones said.

"Then, in late March, the agency called and said we had been assigned a baby girl. I was pregnant, but we decided we wanted to adopt her anyway, and we started calling the little girl Julie." After her husband went to Mexico to determine if the little girl really existed, and after he held and fed her, "we were all excited, and the same thing started happening again," Kaye Jones said.

"People put us off and wouldn't return our phone calls and kept telling us it would be a few more weeks and then a few more weeks," she said. "It's really too bad. I know there are good people out there trying to help couples like us find a baby, but our whole experience with adoption was terrible.

"No one will talk about it because they are afraid they will lose their child or never get one.

"Look at her," Kaye Jones said as the nursed her own newborn. "No one could ever take her away from us. I just feel so sorry for all those others who are still trying to adopt through people like Kelley.

"As long as there is one little thread of hope that a baby might still becoming, you don't want anyone else to get hurt. It is so easy to prey on the emotions of people who desperately want a baby."

[From Fort Worth Star-Telegram, Jan. 8, 1984]

LAWYER'S CHECKS TIE HIM TO ADOPTION BROKERS

(By Stan Jones)

A California attorney has funneled thousands of dollars into a bank account controlled by a principle figure in an international adoption network under investigation in connection with defrauding American couples.

Los Angeles lawyer Duran Cook denies any financial ties to the network.

Cook used the name of a fictitious Mexican attorney as the benefactor of checks bound for an El Paso bank when dealing with clients seeking to adopt Mexican children, the Star Telegram has learned.

Copies of several canceled checks, obtained by the Star-Telegram, show that the money was deposited under an account controlled by Bryan Martin Hall of El Paso.

The same bank account has been used by Hall, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa, for deposits of hundreds of thousands of dollars from American couples trying to adopt Mexican children, according to a consumer fraud lawsuit filed in June by the Iowa attorney general's office.

At least one check mailed by Cook ended up at a Colorado bank and was cashed by Tanner, records show.

Tanner and Hall, who claim a role in the adoptions by Americans of as many as 400 Mexican children since 1978, are the focus of fraud investigations by the FBI, the U.S. Immigration and Naturalization Service, and consumer protection offices in at least six states. At least 60 couples in more than 16 states say they were defrauded of between $3,000 and $7,000 each for children they never received.

Informed sources say Cook is being investigated by the California State Bar for his legal work in adoptions involving Mexican children.

Cook denied any business relationship with either Tanner or Hall.

"At no time did we ever retain, pay to or in any way reimburse anything (to) Debbie Tanner and Bryan Hall," Cook said.

The lawyer said that any money linking him with the pair was the result of Hall or Tanner "diverting" it from its intended destination: attorneys in Mexico.

"Those checks that you mentioned, if in fact they are real, they were no doubt diverted by either Hall or Tanner," Cook said in a telephone interview Saturday.

Cook said he sent funds to Mexican attorneys through an El Paso post office box, and Hall had been given authority by the attorneys to take the mail back and forth across the border. Hall was "the attorneys' runner," Cook said.

Cook said Hall and Tanner had "no authority" to divert checks or co-sign them for Mexican attorneys.

Neither Tanner or Hall could be reached for comment.

Cook, who said he has been heavily involved in international adoptions for 14 years, said he began working with Mexican adoptions about two and half years ago, through Mexican attorneys referred to him by Tanner.

"My working in Mexican adoptions originally came about as a result of being contacted by Tanner," Cook said during a telephone interview Thursday. ". . . Tanner was retiring and didn't want the whole system of working with American couples to be lost. It turned out after about four months that she in fact decided not to retire."

Cook said that through Tanner's contacts in Mexico, he began his own across-the-border adoption network. But the lawyer said his operation is "completely different" from the one headed by Tanner and Hall.

"I have some real strong feelings about what Debbie Tanner has done, and they're not very positive," Cook said. "I don't feel good about the fact that (American couples) are not being dealt with openly and honestly."

But an Altadena, Calif., woman, who said she paid $4,000 to Cook for a Mexican baby she never received, said "it was very clear" that Cook was "working through (Tanner)."

"When I met Cook, he was representing Tanner and Hall," said Jacquie Richman, the director of a California job corps center. "The money he took was for them."

Richman, who filed a complaint against Cook with the California State Bar more than a year and a half ago, said she deposited $3,200 in the client trust account of Cook in August 1981 and an additional $800 in February 1982. She said she later received a letter from Cook indicating that all but $500, which amounted to half of Cook's $1,000 referral fee, had been mailed to a "Senor Lopez" of Juarez, Mexico.

Attached to the letters were copies of the canceled checks Cook had mailed. The copies showed that two checks, for $1,500 each, had been deposited in an El Paso National Bank account registered to Hall and Hall Translation and Intermediary from Dec. 17, 1981, to Jan. 20, 1982. On the back of both checks, the name "Lopez" was written, along with the endorsing signature "Bryan Hall." Hall, who also manages a topless bar in El Paso, has said he translates adoption documents into English for several lawyers in Mexico.

An additional check, dated Dec. 15, 1981, was also made out to "Senor Lopez" but ended up in a Colorado bank. The check had been cashed and endorsed by Tanner.

The name Lopez was also used by Tanner, Kelley and Hall to represent a Mexican lawyer involved in dozens of other adoption proceedings. Both Tanner and Hall said in December, however, that Lopez didn't exist and the name was fabricated because the real Mexican attorneys didn't want to be bothered with telephone calls from anxious couples.

In April 1981, the Texas Department of Human Resources was asked to investigate an attorney named Lopez with an El Paso post office box. The agency learned last year that the post office box was registered to Hall.

Hall and Tanner said they stopped using the name Lopez after they were told that it was improper.

Cook said he stopped using the name Lopez after he was told that the attorney had retired and moved to Mexico City.

"I was told Lopez was the senior attorney," Cook said. "He had moved from Juarez to Mexico City. . . . I had about three or four cases that supposedly were Senor Lopez cases."

Cook said he began using the name of another Juarez attorney, Lorenzo Prospero.

Hall and Tanner said in interviews that Prospero was their main Mexican attorney for adoptions between Mexican children and American couples. Prospero said he stopped dealing with the pair in April 1983 because "they have given me too much problems."

California couples who paid money to either Cook or Tanner for children they never received said it appeared that Cook had stepped into an adoption network already set up by Tanner. It appeared, they said, that Cook had simply added his fees to an already expensive adoption process.

"(Cook) gave me the same instructions I already had from Mexican attorneys," Richman said. "He said he was an intermediary and the Mexican attorneys were my representatives."

Leslie Hanover, 41, of Orange County, Calif., said she paid $1,000 to Cook—$500 for Cook and $500 for "Lopez"—but later backed out of the process after learning that it would cost her $9,000 to $10,000 to adopt a Mexican child.

"I went directly with Duran Cook, who told me about Debbie Tanner," Hanover said. "He said all the paperwork was supposed to go to Tanner."

Another California woman, from Lakewood near Long Beach, said she attended an adoption seminar in September 1981 at which she said Cook and Tanner met for the first time. She said Cock later that year had a seminar in his office in Los Angeles and "our understanding was he was going to be doing what Debbie and Bryan were doing, only for couples in California."

"Duran had some pictures of Bryan Hall and Debbie and children down in Mexico" at the later meeting, she said.

The woman, who attended both seminars but chose not to use Cook's services, said she used Tanner instead, spending $5,200 from September 1981 until February 1983 for a Mexican baby she never received.

She sent the money to a Senor Lopez through Hall's El Paso bank account, she said. She sent all her adoption documents to Senor Lopez at an El Paso post office box registered to Hall.

She never received a child, although she was told by Tanner in 1981 that the adoption was expected to be completed within six months. And she said she has failed to get a penny of her money back.

Cook said Tanner and Hall have asked him to take over their adoption operations, but the lawyer said he refused.

"I have talked to them about their particular plight and predicament that they seem to be in now," Cook said. "I told them no way based on the way they did adoption work that we could really assist them."

Cook said Tanner and Hall have been unable to document what has happened to all of the money that adoptive couples have sent them, and "I did tell them if they would fully inform their clients on the status of their paperwork and funds and the clients wanted to contact us, we would do what we could through our own system to assist them in obtaining a child."

[From Fort Worth Star-Telegram, Jan. 13, 1984]

COUPLE SAYS MOTHER FREELY GAVE UP GIRLS

(By Frank Trejo)

DENVER.—A Colorado couple who adopted two Mexican girls three years ago have rejected claims of the girls' natural mother that the children were taken from her through trickery.

Joe and Madalyn Sutherland of Manassa, Colo., said Thursday that they met with the girls' mother, Ermilla Hernandez, in January and March 1981 in Ciudad Juarez, Mexico, and that Hernandez was well-informed about the adoption procedure.

In fact, Joe Sutherland said, during the March meeting, Ermilla took both of the girls' hands and placed them in the hands of my wife and said, 'Here are your new mother and father.' "

Hernandez, 32, an illegal alien living in Albuquerque, N.M., says that because of her lack of education and inability to understand English, she was tricked by Debbie Tanner of Willcox, Ariz., Bryan Hall of El Paso and others into giving up her four daughters for adoption.

Two of the girls, Paula, 8, and Maria, 10, were adopted by the Sutherlands. The whereabouts of the other two, ages 3 and 5, are unknown.

Authorities in at least six states are investigating complaints that Hall, Tanner and Becci Kelley of New Market, Iowa, took money from couples wanting to adopt babies and failed to provide the children. In Texas, the Department of Human Resources in investigating Hall to determine if he violated child placement statutes by acting as an intermediary in an adoption without a license.

FBI agents in at least three states and agents for the U.S. Immigration and Naturalization Service also are investigating Hall, Tanner and Kelley.

During an interview in the office of their attorney in Denver, the Sutherlands, accompanied by the two girls, said it is because of the investigations that their adoption has become involved in a controversy.

Madalyn Sutherland said she believes that Hernandez has changed her mind about giving up the children and that since Hall and Tanner were involved in the adoption, she has gained national attention with her claims.

"I feel sorry for Ermilla for whatever made her want the children back," Madalyn Sutherland said, "but I feel sorry for what she's done to my children. If she really believed something was wrong, she could have done it some other way. If she really is a loving mother, there are other avenues she could have pursued without turning this into a three-ring circus."

Residents of Manassa, a town of 800 in far south Colorado, confirmed that Hernandez and a television news crew arrived in town Wednesday afternoon in an effort to see the girls. However, the Sutherlands have been staying in Denver since early in the week to avoid reporters and a confrontation with Hernandez.

The Sutherlands said they learned of Hernandez's claims last week after a report was aired on CBS news. An officer for the Conejos County sheriff's department said he went to the Sutherland home after the television report and examined documents on the adoption.

"They were more than willing to show me all the papers they had. They've got nothing to hide," said sheriff's Sgt. Mike Rendon. "My finding was that there was no problem."

Joe Sutherland said his primary concern during the past week has been for the welfare of the girls and to protect them from "a lot of harassment and stress."

During the interview, the girls appeared a bit embarrassed about all the attention they were getting. Paula spent most of the time on her adoptive mother's lap.

Both girls appeared to understand when the Sutherlands spoke to them in English. Maria is in the fourth grade, and Paula is in the third.

When asked if they want to remain with their adoptive parents both said shyly, "Yes."

[From the Fort Worth Star-Telegram, Jan. 13, 1984]

Records Seized in Trash, FBI Says

(By Dave Montgomery and Stan Jones)

Records seized by FBI agents from the Arizona office of Debbie Tanner, including a list of adoptive couples who had paid money to Tanner for children, had to be dug from an office trash can, an FBI affidavit says.

The FBI began a search of Tanner's Willcox, Ariz., office Monday in connection with allegations that at least 60 American couples were defrauded out of thousands of dollars for Mexican children whom they were promised but never received.

Tanner, Bryan Hall of El Paso, and Becci Kelley of New Market, Iowa, have become the focus of the investigation involving the FBI, the U.S. Immigration and Naturalization Service and consumer fraud departments in six states.

A listing of the documents seized during the search was filed with the U.S. district clerk's office in Tucson on Wednesday. The actual documents were not released.

The FBI listing showed that papers, bank checks, and other documents were found in a wastebasket at Casas Antiguas Builders, an office in Willcox where Tanner apparently conducted her adoption work. One of the discarded documents was a "case history alphabetical list of potential adopting parents," the FBI listing said.

Also found in the wastebasket were photographs of children. Other photographs were found behind a filing cabinet and in Tanner's purse, the report said. The trash can also yielded torn bank checks and the names and phone numbers of families in the United States.

On Thursday, U.S. Sen. Robert Dole said he is considering the introduction of legislation to prohibit international adoption networks that he said are operating in 20 states.

Dole's measure, the proposed Anti-Fraudulent Adoption Agency Act of 1984, would impose a maximum five-year prison sentence and a $10,000 fine against anyone who deceptively obtains children and transports them across state lines for adoption.

The measure was drafted by Dole's office after the Kansas senator received reports that 14 couples in his home state have been defrauded of between $5,000 and $10,000 each through an international network that brings babies into the United States from Mexico.

The network's operations have been detailed in a series of articles by the Star-Telegram beginning in December.

Dole asked U.S. Treasury Secretary Donald Regan on Wednesday to launch a "comprehensive" federal investigation.

"We've gotten reports of 20 states that the FBI is looking at" in its investigation of questionable adoption practices, Dole said Thursday.

He said he will introduce his bill if he determines that existing laws do not cover the adoption cases. Congress returns from the year-end recess Jan. 23.

"It's something that I'm going to keep looking at, and we have a responsibility to see it through," he said. "I don't normally let things drop."

Media attention, he said, will bring more cases to light.

"It's a really emotional thing," Dole said.

Sen. Roger W. Jepsen, R-Iowa, also has received reports of questionable adoption practices in his state and has assigned staff members to work with Dole's office in exploring legislative remedies.

Sen. Lloyd Bentsen of Texas said he has asked for a staff briefing on the problem.

Tanner, an intermediary in Mexican adoptions, operates an unlicensed adoption agency in Willcox called Casas Para Los Ninos. She maintains that she has done nothing wrong.

Other documents confiscated from Tanner's office included case histories on at least 11 families believed to have paid Tanner to help them adopt a child.

A bank check ledger under the account of Casa Para Los Ninos was found on the desk of an individual named Tony Benavides, whose connection to the adoption agency is not known.

[From the Fort Worth Star-Telegram, Jan. 15, 1984]

FLESH AND BLOOD: LOVE'S TRAGIC TUG OF WAR

(By Frank Trejo)

ALBUQUERQUE, NM.—When the smiling faces of two little girls—Maria and Paula—were flashed on nationwide television last week, the heartache began.

For Joe and Madalyn Sutherland, the peaceful existence they had sought in Colorado's isolated San Luis Valley was shattered.

In Albuquerque, NM, Ermilla Hernandez hoped that the desperate search she began almost three years ago soon might end, but in her heart she knows it may just be beginning.

Both the Sutherlands and Hernandez, who are on opposite sides of this story, have the same fear. Tears come quickly to their eyes as they describe their love for shy little girls with the easy smiles.

Hernandez, who is the girls' natural mother, says the girls were taken from her through trickery in 1981. The Sutherlands say they adopted the girls legally and that Herandez had full knowledge of the adoption proceedings.

"There's no way I could love these girls anymore, even if they were my own flesh and blood, because as far as I'm concerned, they are my own flesh and blood," Joe Sutherland said.

Hernandez, a Mexican national who entered the United States illegally in 1981 to search for her four daughters, said she is relieved to learn that two of them have been well cared for by the Sutherlands. But, she said, there is no way she would ever give them up permanently.

"I would never have gone through all this, for three years, trying to find my girls if I had given them up," Hernandez said. "I want my daughters because they are my daughters."

Whatever the outcome of the dispute, the heartache is sure to continue.

Hernandez, 32, says that because of her lack of education—she says she has a third-grade education—and her inability to understand English, she was tricked by Debbie Tanner of Willcox, Ariz., Bryan Hall of El Paso and others to give up her four daughters for adoption.

The two oldest girls, Maria and Paula, were adopted by the Sutherlands. The whereabouts of the other two, aged 3 and 5, are unknown.

Tanner, Hall and Becci Kelley of New Market, Iowa, have become the focus of an investigation involving the FBI, the U.S. Immigration and Naturalization Service and consumer fraud agencies in six states. The primary goal of the investigation is to determine whether the adoption operation in which Tanner, Hall and Kelley were involved defrauded American couples of thousands of dollars for adoptable Mexican children whom they were promised but never received.

Beginning with a series of articles in October, the Star-Telegram has exposed the problems with Mexican adoptions handled by Tanner, Hall and Kelley.

The articles have detailed the plight of U.S. couples who are so desperately seeking to adopt children that they have paid thousands of dollars on the mere promise of a child. One of the complaints comes from a Bedford couple who said they paid more than $5,000 to Tanner, Hall and Kelley for a baby. Like the other couples in at least 16 states, they never received one.

One of the articles included Hernandez's contention that she was tricked into giving up her children.

Josephine Rohr, an Albuquerque lawyer hired by Hernandez to help locate the girls, on Saturday said the recent developments have made her "more convinced than ever" that Hernandez is telling the truth.

In addition, Rohr said, her case is strengthened by comments from Kelley.

Kelley told the Star-Telegram Saturday that as a result of convesations she had with Tanner during 1981, she can confirm that "the woman (Hernandez) was tricked."

Kelley declined to go into details, but she also confirmed that she has offered to talk to FBI investigators in exchange for immunity from prosecution. So far, she said, the FBI has declined her offer.

The Sutherlands believe that Hernandez simply changed her mind after the adoptions became final. They became involved in the controversy, Madalyn Sutherland said, because Hernandez named persons who already were under investigation.

"It's like comparing apples and oranges," Madalyn Sutherland said. "But somehow it's gotten all mixed up and now we're right in the middle of it."

On Thursday, just a few days after their world turned upside down, the Sutherlands spoke with the Star-Telegram in the suburban Denver office of their lawyer.

It was five years ago that the Sutherlands, who are members of the Church of Jesus Christ of Latterday Saints (Mormons), decided they wanted to adopt children. The couple had what Madalyn Sutherland calls "a his-and-hers family." She had three children from a previous marriage and he had five children from a previous marriage. But they'd had no children together.

Madalyn Sutherland gently corrected a reporter's assessment of the importance of family life to a Mormon. No, she said, the family is not an important aspect of the Mormon religion. The family, she said, is the basis of her religion.

So in 1979, the Sutherlands began their efforts to start a new family—an adopted one. The Sutherlands said they had problems in trying to find children in the United States because they already had children and because of their ages. He is 49 and she is 50. Madalyn Sutherland said she began researching procedures for adopting children from Latin America. From a book she checked out from a library, she obtained the names and addresses of agencies that handled adoptions in countries such as Brazil, Chile and Ecuador. She wrote to these agencies.

The answers, she said, were almost always the same: There were no babies available. Then she heard about a woman named Debbie Tanner, who lived in Colorado and could locate adoptable babies in Mexico. Madalyn Sutherland said she visited Tanner, who was living near Cortez, Colo., at the time and asked her to find a child for her.

After two years of waiting and almost constant telephone contact with Tanner, Tanner called them one January evening in 1981 to say that there were two adoptable girls in Ciudad Juarez Mexico.

"The next morning, at 4 o'clock, we were on our way to El Paso," Joe Sutherland said. "We went to the Holiday Inn in El Paso and that's where we met Bryan Hall. He took us over to Juarez and we got to meet Ermilla and the four little girls."

Joe Sutherland said he was told that the two oldest girls were supposed to have been adopted by another couple who later backed out of the deal. The Sutherlands said they were concerned that the girls were a little older than they had expected and that they knew no English. The Sutherlands don't speak Spanish.

"We're the kind of family who relies quite a bit on asking our Heavenly Father for help," Joe Sutherland said. "We went back to the hotel and prayed. The next morning, we decided to adopt them."

The paperwork was begun and in March of that year, the Sutherlands said, they returned to Juarez to pick up the girls. It was at that time, Joe Sutherland said, that Ermilla Hernandez took the girls hands and placed them in the hands of his wife and told the girls that these were their new parents.

Hernandez confirms that she met with the Sutherlands but denies ever telling the girls that the Sutherlands were their new mother and father.

"What went on between my daughters and me was done in private, not in front of the Sutherlands," Hernandez said. "I took the girls aside and told them that they were going to go with these people, but that I would go for them in a few days and that we would be together again.

Hernandez, who speaks little English, maintains that the agreement she reached with Hall and Lorenzo Prospero, a Mexican lawyer, was that the girls would be taken into the home of a U.S. couple temporarily so they could go to school while she looked for a job in the United States. She said she was promised that she could visit the girls every weekend and that after about a year, she would be able to go with the girls to an INS office and arrange for permanent legal status for herself in the United States.

But March 1982 was the last time she has seen the girls in person. Last week, she saw her daughters being interviewed on television. Both of them said they wanted to remain with their mother and father—the Sutherlands.

"I was happy when I saw them because I could see they were well," Hernandez said. "I was not surprised by what they said because they have been away from me for so long. Who knows what they have been told or believe about me. The last time I saw them I told them I would see them in a couple of days and then they never saw me again. I would not be surprised if they believe that I abandoned them."

That, she said, is why she went to the Sutherlands' hometown of Manassa, Colo., on Wednesday. Hernandez said she wanted to reassure the girls that she still loved them and that she had not purposely abandoned them. She did not get to see them because the Sutherlands had left town early in the week to avoid such a meeting.

Residents of Manassa were infuriated that during her visit Hernandez was accompanied by television news crews. People in the town say they have come to love Maria and Paula as much as they love the Sutherlands.

"I'm not saying I don't feel sorry for the girls' mother (Hernandez)," said Vickie Ross, a neighbor of the Sutherlands. "But when those people showed up yesterday (Wednesday) stopping our children on the school ground, showing them pictures of Paula and Maria and asking them questions, everybody just thought it was terrible.

"They were waiting at the school buses looking for the girls. Don't these people realize what it would have done to Paula and Maria to have confronted the mother like that," Ross said. "Aren't they thinking about Paula and Maria? I think that is one of the cruelest, most barbaric things I have ever heard."

Rohr said she believes that the Sutherlands are victims of the adoption operation as much as Hernandez is.

Hernandez acknowledges that if the children are returned to her, she would not be able to provide as many material benefits as the Sutherlands can.

"I know I could never give them as much luxury as they have now, but I would be able to give them, as I had before, the necessities and my love," Hernandez said.

Madalyn Sutherland speaks of the joy that the girls have brought into her home and says she cannot understand why anyone would want to take her children.

"Had we not met the mother and had she not placed the children's hands in our hands, there might be some question," Joe Sutherland said. "But we never questioned it (the adoption)."

[From Fort Worth Star-Telegram, Jan. 15, 1984

Law Turning an Ear to the Cries and Whispers

(By Stan Jones)

During the last three weeks, law enforcement agencies and government officials have at last heard the emotional cries of American couples who say they have paid thousands of dollars to adopt Mexican babies they have never received.

Some of the families had waited more than three years. And now the international system they had trusted with their money, hopes and dreams is the focus of a widening investigation by federal and state authorities.

Debbie Tanner of Willcox, Ariz., Bryan Martin Hall of El Paso and Becci Kelley of New Market, Iowa, have become the key subjects of federal and state investigators for their roles as intermediaries in adoptions between the United States and Mexico. The three played key roles in an adoption network that links adoption agencies throughout the United States with attorneys in Mexico who specialize in adoptions.

By late December, more than 30 families in 12 states had complained that they each had paid between $3,000 and $7,000 in adoption fees to Hall, Tanner and Kelley for children they never received. By last week, the number of couples complaining to state and federal authorities passed 60, and four more states began their own investigations of the trio. And more complaints are expected.

As the scope of the problem grew, law enforcement agencies finally began to act.

FBI agents in Arizona last week obtained a search warrant and confiscated adoption records from Tanner's office in Willcox, Ariz.

Officials of the U.S. Immigration and Naturalization Service in Utah, Nebraska, Colorado and New Mexico and FBI agents in New Mexico, Utah and Texas confirmed that investigations of Tanner, Hall and Kelley were under way.

Consumer fraud agencies in Arizona, California, Kansas, Utah and New Mexico have acknowledged that investigations of the trio have begun. And officials of the Texas Department of Human Resources say they are investigating Hall.

Last week, Sen. Robert Dole, R-Kan., called on Treasury Secretary Donald Regan to include the Internal Revenue Service in a "comprehensive," nationwide investigation of the problem. Dole also said he may introduce federal legislation making de-

ceptive practices in international adoptions a violation of federal law. The action comes in the wake of a series of articles published in the Star-Telegram since October, exposing problems with Mexican adoptions handled by Hall, Tanner and Kelley.

The articles have detailed the plight of U.S. couples who are so desperately seeking to adopt children that they have paid thousands of dollars on the mere promise of a child. Included among those is a Bedford couple who said they paid more than $5,000 to Tanner and Kelley for a baby. Like other couples in at least 16 states, they never received a baby.

The Bedford couple is among the estimated 2 million couples nationally who are waiting to adopt children. In 1983 an estimated 60,000 children were adopted nationally—13,771 in Texas.

It is estimated that the number of infertile couples in the nation seeking to adopt children outnumbers the available infants by more than 30 to 1.

Officials of licensed adoption agencies such as the Edna Gladney Home in Fort Worth, which places children born to women who seek care and shelter at the home, say it is not unusual for couples to wait five or six years to adopt a child. The Gladney Home is the largest maternity home and adoption agency in the nation.

The number of couples seeking to adopt is so great and the number of infants available for adoption is so small that many turn to baby brokers—professionals who wheel and deal in a gray market for babies under the guise of inflated legal and medical charges. Baby brokers are often doctors and lawyers who know where the babies are and what they're worth to adoptive parents. They put two together—for a fee.

But there are also baby brokers who promise babies to couples, take their money and never deliver the children. This problem is only now coming to light and authorities are just beginning their investigations.

Investigators are trying to determine if Hall, Tanner and Kelley and other members of the international adoption network have broken any laws. The allegations of fraud being investigated come from couples who paid money to Tanner, Hall and Kelley as long as three years ago to adopt babies but received nothing in return. Many of the couples said they were led to believe they would receive a child from Mexico within four to six months.

In determining whether fraud was involved in the international adoption network, authorities are attempting to determine if the trio collected money from couples and never intended to provide a child.

Hall, Tanner and Kelley have repeatedly said they have broken no laws.

Tanner and Kelley say they are merely liaisons between the United States and Mexico and are not required to be licensed in their home states as child-placement intermediaries. Hall describes himself as a translator for Mexican attorneys who specialize in adoptions.

Questions also remain about whether Hall and Tanner have played pivotal roles, as they claim, in the completed legal adoptions of as many as 400 Mexican children by Americans, or whether the network is a fraud, as the Iowa attorney general claims, collecting money for undelivered goods. The Iowa attorney general's consumer fraud division is suing Kelley, Hall and Tanner to prohibit them from operating in that state. A state judge issued a temporary injunction prohibiting the trio from operating in Iowa. A trial on the permanent injunction is scheduled for later this year.

Answers remain elusive. No one knows how many adoptions Hall, Tanner and Kelley may have helped arrange. Although dozens of documents are required in an international adoption, they are filtered through several unrelated agencies that don't communicate with each other and are difficult to collect.

And because Tanner and Kelley use licensed and unlicensed adoption agencies throughout the country, their names rarely appear on the documents.

Couples who have received Mexican children through the network are reluctant to come forward for fear of being drawn into the widening investigation and possibly losing the children they so desperately want to keep, investigators with the INS and the Iowa attorney general's office say.

In Colorado, where Tanner lived until 1981, state officials accused her of placing children without a license in January 1979 and warned that "you must cease any activity of arranging for placement of a child . . . until such time as you have made application for a license as a child-placement agency."

Adoptive couples in Colorado who dealt with Tanner said she continued to act as an intermediary in that state long after 1979. Dave Ashmore, director of Colorado Family and Children Services, said the agency did not follow up on Tanner's adop-

tion activities and "to the best of our knowledge, (Tanner) did cease" operating in the state in 1979.

The Texas Department of Human Resources is trying to determine if Hall violated child-placement laws by acting as an unlicensed intermediary. A violation of Texas child-placement laws is a relatively minor offense—at worst, a misdemeanor conviction or a civil penalty and fine.

In an interview with an Arizona newspaper this week, Tanner insisted that her role in the adoption network violates no law.

"We were attempting to bring the two countries (the United States and Mexico) together," Tanner said. "I feel that I found a way to do it all legally and in an easier way."

[From Fort Worth Star-Telegram, Jan. 17, 1984]

Couples Listed for Attorney

People working in several states to link prospective parents with adoptable Mexican babies are compiling their own list of couples still waiting for promised babies and plan to hire an attorney to represent all of them, Becci Kelley said Monday.

The New Market, Iowa, adoption broker estimates that there are more than 100 couples who have paid for adoption services and never received a baby.

Kelley is one of three people named in an Iowa consumer fraud suit alleging that couples were defrauded of thousands of dollars through a Mexican adoption network run by Kelly, Bryan Hall of El Paso and Debbie Tanner of Willcox, Ariz.

Kelley says Tanner and Hall ran the network, and she was only one of a dozen or more liaisons working to link children with parents in various states.

To support her contention, she said she has been in touch with other "liaisons" to put together a list of couples who might have been defrauded.

"The liaisons are putting together one list of adoptive couples, and we will attempt to hire one attorney on behalf of all the couples," Kelley said. "I think, from talking to some of the other liaisons, that there will be more than 100 (couples).

"I am more stunned by the day," Kelley said. "The thing that gets me is the number of people who have been taken. I know there is a lot of money missing."

Kelley said most of her couples are from Iowa and Massachusetts.

[From Fort Worth Star-Telegram, Jan. 18, 1984]

Ex-Aides Believe Baby Broker Ran Pipeline

(By Stan Jones)

Despite her inability to provide Mexican children for a huge waiting list of American couples, adoption intermediary Debbie Tanner of Arizona sought to expand her operation throughout the country, two former associates said.

Daniel Barnett, 24 and Steve Porter, 25, both of Chandler, Ariz., a small community on the southern fringe of Phoenix, said Tanner asked them in the summer of 1982 to help her "keep expanding" by creating a corporation called United Referral International.

The Chandler-based company, which was intended to operate at a profit, was designed to turn Tanner's disheveled adoption operation in a well-oiled business, Barnett and Porter said in a recent interview.

But the two businessmen, who knew the Tanner family when they lived in Chandler during the 1970s, shelved the arrangement after less than four months. The company was never incorporated in Arizona.

Barnett and Porter said infighting with Tanner over the business and concerns that pregnant Mexican women were being smuggled into the United States caused them to sever their relations with Tanner, who lives in Willcox, Ariz.

Uncompleted adoption records for dozens of American couples who paid for children they never received were left at Barnett's office and have been gathering dust in an office closet since the company was disbanded 14 months ago.

Barnett said the records were left behind by Tanner. Also left behind, the businessmen said, were more than $2,000 in unpaid telephone bills.

"Fortunately, it was stopped when it was," Barnett said. "It could have grown into a monster. It was incredible and she wanted to keep expanding."

Barnett and Porter, who operate a rental property credit business out of Barnett's Chandler home, said Tanner asked them to use their business management skills to

sort out her adoption business in June 1982. Barnett said that initially, "We felt it would be a very viable business and one in great demand" because of Tanner's contacts in the close-knit adoption world.

"From what she was saying, there was a lot of money to be made," Barnett said. "You could charge a good fee . . . and do it legally."

Tanner, Bryan Hall of El Paso and Becci Kelley of New Market, Iowa, are the focus of consumer fraud investigations on the federal and state level. More than 60 adoptive couples in at least 16 states have complained that they each paid between $3,000 and $7,000 to the three for adoptable Mexican children they never received.

Beginning in October, the Star-Telegram has detailed problems with babies in the gray market, adoptions and the plight of U.S. couples willing to pay thousands of dollars to baby brokers on the mere promise of a child. A Bedford couple said they paid Kelley, Tanner and Hall more than $7,000 and never received a baby.

The Bedford couple is among an estimated 2 million couples nationally who are waiting to adopt children. During 1983 there were an estimated 60,000 children adopted nationally—13,771 in Texas.

Hall, Kelley and Tanner have maintained that their adoption network, which uses lawyers in Mexico and adoption agencies in the United States to link couples with adoptable children, has broken no laws.

But Barnett and Porter said their association with Tanner left them uneasy and concerned that Tanner may have tried to meet the high demand for Mexican babies illegally.

"We found out there was some smuggling of women going on," Barnett said. "I know for sure that Debbie told me that was what they were doing. I don't know why she would have lied about doing something illegal."

Barnett said Tanner told him in early 1982 that she had devised a way to speed up the Mexican adoption process by circumventing the Mexican courts. Her method, Barnett said, was to bring pregnant Mexican women across the border to give birth in the United States. The children would become U.S. citizens automatically and could be adopted by U.S. couples without the necessity of dealing with the Mexican court system. However, depending on how the pregnant women were brought across the border, such a process could violate U.S. immigration laws.

Tanner and Hall have blamed the Mexican court system for long delays in adoptions by U.S. citizens. Although some couples were promised a child for adoption within six months to a year by Hall, Tanner and Kelley, many couples have waited three years without success.

Repeated attempts to reach Tanner for comment were unsuccessful.

Kelley, who said she has unsuccessfully sought immunity from prosecution from the FBI, said Tanner openly discussed bringing pregnant women into the United States during 1982.

"She asked me if I wanted to be involved in having women come over and having their babies," Kelley said. "She said, 'We'll get work permits for these women and they'll come over and have their babies.'

"I said, 'Is that legal?' and she said if they've got a work permit, it is," Kelley said.

James H. Smith, agent in charge of the U.S. Immigration and Naturalization Service office in El Paso, said work permits are issued only for Mexican nationals who have a specialized skill, such as nurses or doctors. However, he said pregnant women can obtain a visitor's pass at the border and give birth in the United States. Such a procedure is legal, he said, so long as the mother does not remain in the country and performs no work-related activities.

Kelley said she refused to become involved in the streamlined process after consulting with a lawyer.

Two women in Utah who paid $2,300 each to get babies from Mexican women crossing the border to give birth said Tanner told them that pregnant women were picked up by Bryan Hall after they entered the United States.

Both women asked that their names be withheld on the advice of FBI agents who interviewed them. One of the women said Hall told her the pregnant women swam across the Rio Grande.

"They'd swim across the river and at this point Bryan Hall picked them up," the woman said. "(Hall) had several in his home. He told me once he was going crazy with them."

The woman said Hall took her into his confidence because he wanted her to become involved in the operation.

"He wanted me to take the girls in my home," she said. "He was going to fly them up here for me to keep a couple of girls so that they could have a place to stay, and I just told him no way."

Hall was unavailable for comment. His El Paso attorney, Sib Abraham, did not return calls to his office.

The woman said she gave a statement about the conversations to the FBI and was told she might be needed as a witness if charges were filed against Tanner, Hall or Kelley.

FBI officials would not comment on their investigation.

Barnett said that when Tanner lived in Colorado in 1981, he visited her while on a skiing trip and noticed that a pregnant Mexican woman was staying with her.

The two Utah women said Tanner told them she had two pregnant Mexican women in her home in Arizona in April 1982.

Barnett said he had no proof that smuggling actually occurred. He said he asked Tanner about it, and "she comes back with 'You can't get caught. There were ways to get them across.' "

Barnett said Tanner commuted between Willcox and Chandler regularly, staying about two days a week, until efforts to set up the company were abandoned in November 1982.

"She had created a monster in the business sense," said Porter, who developed a computer program to keep track of the adoptive couples who sent money to Tanner. "It was not an operation a typical housewife could handle. It was a pretty big operation."

And Tanner wanted to expand it further, Barnett said.

"She wanted people in all 50 states," he said. He said Tanner also made frequent trips to Mexico to expand her contacts and find more adoptable children.

Barnett and Porter said they knew little about the Mexican side of the adoption network.

"There was a lot of vagueness coming from Debbie as to what was happening across the border," Barnett said. "what was going on down there was basically what we were told."

Barnett said Tanner charged each adoptive couple an aplication fee of between $500 and $1,000. Other money collected was sent to Hall in El Paso, Barnett said. The application fee was to have been split among Tanner, Barnett and Porter, Barnett said.

During the four months the company was in business, Barnett said, about $6,000 was funneled through a Chandler bank account in the name of United Referral.

The Star-Telegram obtained copies of the adoption records left at Barnett's office. They included files on 47 people from Utah, Oregon, Washington, Hawaii, California, New Mexico, Massachusetts, Colorado, Kansas, Pennsylvania, Illinois, Arizona, Maryland, and Texas.

Each of the individuals listed was involved in various stages of the adoption process, the files showed. At least five of the people contacted by the Star-Telegram had adopted Mexican children with the aid of Tanner, while at least four others dropped out of the adoption process without paying more than a $300 application fee.

Most of the others, however, said they had paid money to Tanner or Hall as long as three years ago and had not received a child.

The files consisted of letters and various adoption documents—most of them copies of original paperwork. The majority of the files dealt with Utah and California couples.

The names of 12 other people who had also dealt with Tanner concerning adoptions also were found on handwritten notes.

The Chandler records, in addition to those confiscated at Tanner's Willcox office by the FBI, bring to almost 80 the number of documented adoption cases in which Tanner has been involved.

Tanner has said she has helped as many as 400 American couples adopt Mexican children.

[From Forth Worth Star-Telegram, Jan. 24, 1984]

FBI Inquiry of Adoptions Escalates

(By Stan Jones)

FBI agents from Washington and at least three states are converging on Albuquerque, N.M., this week to review the progress of investigations into an international adoption network accused of defrauding couples seeking to adopt babies in at least 18 states.

At least 80 couples have complained of paying between $3,000 and $7,000 to three people for adoptable Mexican children that they never received.

Rob Sutton, agent in charge of the FBI office in Salt Lake City, confirmed today that an agent and prosecutor from the U.S. Attorney's Office in Utah will meet in Albuquerque with FBI investigators to swap notes on a Mexican adoption pipeline controlled by Debbie Tanner of Willcox, Ariz., and Bryan Martin Hall of El Paso.

A spokesman for the Federal Bureau of Investigation's headquarters in Washington refused to confirm or deny that such a meeting will take place. Joel Carlson, agent in charge of the Albuquerque FBI office, also refused comment.

Sutton said, however, that FBI agents from several offices, including the Washington office, would be attending the meeting, scheduled to last throughout the week.

"A number of FBI offices will be represented," Sutton said. He said the meeting was arranged to give a clear direction to the investigations now being handled separately by several district offices.

"We found out that a number of FBI offices were investigating this thing simultaneously," Sutton said. "We wanted to get together and consolidate the evidence."

An investigator with the FBI office in El Paso would not confirm that the meeting was scheduled, but he said that "if there is one, we'll be there."

Tanner, Hall and Becci Kelley of New Market, Iowa, have been accused of defrauding at least 80 couples in 18 states out of between $3,000 and $7,000 each in exchange for a Mexican child the couples never received for adoption.

One of the couples lives in Bedford and said they paid more than $6,000 to Tanner, Kelley and Hall three years ago for an adoptable baby. The couple said they received neither a child nor their money back.

Sutton refused to discuss any details of the meeting. He said that agents from various states—including Arizona, Utah, and Texas—would be arriving this week to review the progress of the investigations.

Tanner, Hall and Kelley have said they are unlicensed adoption intermediaries who act as liaisons with licensed agencies and lawyers in Mexico who find children for adoption.

The three have said they have broken no laws.

[From Fort Worth Star-Telegram, Jan. 25, 1984]

Documents Altered in Adoptions, Lawyer Says

(By Stan Jones)

The birth certificates of three of the four children whom Ermilia Hernandez says she unwillingly gave up for adoption were altered when filed with Mexican officials in Ciudad Juarez in 1981, her attorney says.

Josephine Rohr, an Albuquerque, N.M., attorney who says Hernandez was duped by members of an international adoption network into giving up her children to adoptive couples in the United States, said "significant discrepancies" exist between the children's birth certificates filed during the adoption process and the original birth certificates filed years earlier.

Three of Hernandez's children, ages 11, 10, and 4, were born and registered in Hernandez's home of Saltillo, Mexico, about 50 miles west of Monterrey, Rohr said. In 1981, however, new birth certificates were prepared for the children to show the names of their new adoptive parents, she said. Those documents were filed in Juarez, where the adoptions took place, Rohr said. The fourth, newborn child was registered only once, Rohr said.

"What they were doing would be the equivalent of if you have a Nevada birth certificate and you discover an error, you go to California to get it fixed, which is not kosher at all," Rohr said.

Rohr said the ages of three children had been falsified on the new certificates to show them as younger. Rohr would not elaborate on other discrepancies she said were found on the new documents.

Hernandez, 32, an undocumented Mexican national living in Albuquerque, said Bryan Martin Hall of El Paso and Juarez attorney Lorenzo Prospero told her that the ages would be changed on the birth certificates so the children would be able to start school in the United States at lower and easier levels.

Both sets of birth certificates were turned over to the FBI office in Albuquerque, which is heading a nationwide investigation of the adoption network, Rohr said Joel Carlson, the agent in charge of the Albuquerque FBI office, refused to comment on the documents.

Although Hernandez acknowledges that she signed papers terminating her parental rights to the children, she contends that the papers were written in English and she did not know she was giving the children away. She accuses Hall, Prospero and Viola Anthony, a U.S. citizen living in Arteaga, Mexico, of misleading her to believe that the children were being taken away only temporarily.

Anthony, interviewed by the Star-Telegram in Arteaga, a small village on the outskirts of Saltillo, denied that she lied to Hernandez. The 71-year-old widow said Hernandez came to her and asked about giving up her children. Anthony said she contacted Prospero and Hall, who found adoptive couples in the United States and prepared the adoption documents. Anthony said she kept Hernandez and her children in her home for several months and was paid "$2,000 and some change" by Hall for feeding and clothing them. "They were like part of my family," Anthony said. "I actually cried when they left."

FBI agents from Washington, D.C., and at least three states began converging on Albuquerque this week to review the progress of their investigations.

Rob Sutton, the agent in charge of the FBI office in Salt Lake City, said Tuesday that agents from around the country were meeting to swap notes on their investigations of Hall, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa. The three are accused of heading an adoption network that has defrauded more than 80 couples in 18 states of between $3,000 and $7,000 each for Mexican children they never received.

One of the couples, residents of Bedford, said they paid more than $6,000 to Tanner, Kelley and Hall three years ago for an adoptable baby. The couples said they received neither a child nor their money back.

William Lutz, the U.S. attorney in Albuquerque, would neither confirm nor deny that the meeting was designed to prepare for a federal grand jury investigation. Kelley, who said she gave a statement to FBI agents Friday concerning her role in the network, said she was told that she would be called to testify before a grand jury in Albuquerque in the next few weeks.

In adoption cases in which couples did receive children, the U.S. Immigration and Naturalization Service also is trying to determine the origin of the children in Mexico and whether the proper paperwork was prepared.

A spokesman for the FBI's national headquarters in Washington refused to confirm or deny that a meeting was taken place in Albuquerque. Carlson, with the Albuquerque office, also refused to comment.

But Sutton said FBI agents from several states, including the Washington office, would attend the meeting, scheduled to last all week. He said the meeting was arranged to give a clear direction to the investigations now being handled separately by several district offices.

"We found out that a number of FBI officers were investigating this thing simultaneously," Sutton said. "We wanted to get together and consolidate the evidence."

Tanner, Hall and Kelley have said they are unlicensed adoption intermediaries who work with licensed agencies and lawyers in Mexico who find children for adoption. The three have said they have broken no laws.

Tanner's Willcox office was searched by FBI agents last week and a number of records were confiscated. Additionally, FBI agents, confiscated adoption records left by Tanner at the offices of two Chandler, Ariz., businessmen after the Star-Telegram reported their existence.

[From Fort Worth Star-Telegram, Jan. 26, 1984]

Adoption King Cuts Mexican Ties

(By Carolyn Poirot)

Chicago.—An attorney who claims to be the nation's king of adoptions says he got out of Mexican adoptions three years ago because they were too much trouble.

"It became too difficult," Seymour Kurtz said last week. "International adoption is too complicated. . . . I am leaving that to others smarter and braver than I."

Becci Kelley of New Market, Iowa, who has been linked to Kurtz through telephone records obtained under court order by Illinois officials, said Kurtz tried to warn her to stay away from Mexican adoptions. "I just wish I would have listened to him," she said last week.

Kelley is one of three people being investigated by the FBI, the U.S. Immigration and Naturalization Service, the Iowa attorney general's office and agencies in at least five other states on complaints that they defrauded couples in the United States seeking to adopt Mexican babies out of thousands of dollars.

Kurtz and Kelley say they have been friends for many years but deny any joint business dealings. Both said Kurtz has never been associated with Bryan Hall of El Paso and Debbie Tanner of Willcox, Ariz., the two named with Kelley in a consumer fraud suit filed by the Iowa attorney general. Hall and Tanner, along with Kelley, also are the subjects of investigations by federal and state authorities.

Beginning in October, the Star-Telegram, in a series of articles, has revealed problems with Mexican adoptions handled by the three.

The articles have detailed the plight of U.S. couples who are so desperate to adopt children that they have paid thousands of dollars on the mere promise of a child.

Including among those is a Bedford couple who said they paid more than $7,000 to Tanner, Hall and Kelley for a baby. Like couples from at least 16 other states, they never received a baby.

"From about 1980 or early '81. I have had no contact and no involvement with the adoption of children from Mexico or any part of Latin America to any part of the United States or the world," Kurtz said in a telephone interview from his office in Atlanta, Ga.

Kurtz, who in 1973 in Mexico set up the first adoption agency that specialized in arranging adoptions for U.S. couples, said he went south of the border to find babies when the supply of adoptable babies became short in this country. He set up Casa del Sur, outside of Mexico City, with the help of Mexican officials, he said.

"When I worked in Mexico, my agency was sponsored by the cardinal and President (Louis) Echevarria," Kurtz said. "One left office and the other retired, and things became too difficult."

Shortly after the government of Louis Echevarria was replaced by Jose Luis Portillo in December 1976, Casa del Sur, a federally chartered agency, was liquidated. A second agency was established under a state charter but never really got going and was closed after a few years, Kurtz said.

Kurtz said now he does only domestic adoptions and hopes to set up adoption agencies in every state.

Asked if the rumor that he wants to be king of adoptions is true, Kurtz said, "Oh, no. I already am. We do more placements of healthy, white children than anyone in this country."

He said he is involved only with Easter House, his Chicago agency, and Friends of Children, a similar agency in Atlanta. The two agencies place between 250 and 300 children a year, Kurtz said. Kurtz now lives in Atlanta.

"It is our intention to be a licensed agency in every state in the union," he said.

But the Illinois Department of Children and Family Services is trying to close his operations.

Kurtz has been battling licensing requirements with the department since 1976, when his agency was temporarily closed. The department again refused to renew his license in 1981 and beefed up efforts to close Kurtz's operation.

He appealed and demanded a hearing.

The result has been three years of verbal arguments, which just recently were summarized and sent to a hearing officer.

The arguments center on licensing regulations and non-refunded payments for home studies that did not end in adoption.

Kurtz argues that the state of Illinois has no jurisdiction over the price that he charges for a home study of parents seeking to adopt or over whether the fee is refundable. He contends that the decision not to renew his license was based on personality conflicts.

Mark Poulsen, who heads the department's legal staff, said Thursday that the hearing officer should issue a decision any day. He said if the hearing officer agrees with Kurtz, the state will fall back on efforts begun in July 1982 by attorneys general in Illinois and three other states to win a court order halting Kurtz's operation.

In seeking the injunction, the attorneys general argued that Kurtz violated the laws of Illinois. New Jersey, Michigan and Indiana in placing children in those states.

"We investigate license violations," Poulsen said. "We do audits on all our licensed facilities. Sometimes they are routine and sometimes they are done because we get complaints. In the Easter House case, we did get plenty of complaints.

"A year ago, the attorney general filed for an injunction through the circuit court to try to close him down. If we don't win this one, that one will be reactivated," Poulsen said.

Records in the case indicate that most of the complaints involved couples who paid for home studies and then decided not to adopt through Kurtz, either before or after the studies were completed. The couples complained that they demanded refunds of fees from $300 to $1200 but were told the fees were non-refundable.

"The major issue was his Mexican operation," Poulsen said.

Poulsen acknowledged that Kurtz has apparently stopped his Mexican operation but said the department wants to revoke his license to prevent him from operating in Illinois.

To further complicate the legal picture, Kurtz filed suits in federal court in 1976 and 1977 charging that his civil rights were violated by workers of the Children and Family Services Department who want to put him out of business. Those cases are still pending.

In the meantime, Kurtz is continuing to operate.

"It (adoption) is the most enjoyable thing I've ever done in my life, notwithstanding the barbs from a few people," Kurtz said.

"Our work is Christmas time every day," he said.

Kurtz said he expects "no fair treatment" from the Illinois agency because he is doing a better job without government subsidies than most others in Illinois do with federal grants.

Kelley said she began calling Kurtz after Iowa officials began looking into her operation because she knew of his troubles in Illinois.

"He's a friend. That's all. We have been friends for many, many years. We are acquainted through adoptions, and when this thing started with the (Iowa) attorney general's office, I knew he had been in a lawsuit with the state of Illinois, and I called him to discuss it," Kelley said.

"I can guarantee you, there have been no business dealings between us, and he doesn't even know Bryan Hall or Debbie Tanner."

She also contends that she should not be considered a major figure in the overall investigation because it involves several dozen other people working in different states to match adoptive parents with babies provided through Tanner and Hall, as she did.

Kurtz said he has known Kelley several years.

"I think she is a person who means to do things well and sometimes makes a mess of it," Kurtz said.

[From Fort Worth Star-Telegram, Jan. 26, 1984]

Mexico Says Baby Brokers Hard To Stop

(By Carolyn Poirot)

Private adoptions arranged outside an authorized government agency are illegal but almost impossible to stop, Mexican officials say.

The arranging by doctors, lawyers and others of adoptions of Mexican children for United States couples in exchange for money are "completely illegal," said Marco Antonio Rojas, an attorney for Mexico's Department of Family Development. Doctors, lawyers and others in Mexican border towns who arrange private adoptions face punishments of up to 40 years in prison.

"It is a federal offense against the civil rights of the human being," Rojas said. "If it can be ascertained that the robbery of a child has been secured, it is punishable by up to 40 years in prison—both for the person who arranged the adoption and the adopting couple."

However, such adoptions are almost impossible to stop, Rojas said.

"They use a variety of tricks. Sometimes they get both the woman giving birth and the adopting mother in the hospital at the same time and make it appear that the one adopting the child is the one who delivered it," Rojas said. "Then they go to a registrar and register it as their own. This is happening fundamentally in border towns.

"There are also cases where it is simply a question of finding someone who wants to relinquish a child. That person takes money and another person takes the child.

"A child can only be relinquished legally to the nearest relative or a foster home that has been authorized by Mexican law," Rojas said.

Rojas is assistant director of legal affairs of the System Integral for the Development of the Family, the federal agency comparable to the U.S. Department of Health and Human Services.

The agency, known as the DIF, has foster homes for infants and a home for children ages 5 to 18 in all 31 states of Mexico, said Oscar Kaufman, public relations director for the agency. The agency also sets policy on all family matters in Mexico. Those government-sponsored foster homes and a group of church-sponsored foster

homes approved by the state are the only agencies that can legally place children, Kaufman said.

"There is a constant campaign to educate people about not (getting involved with private adoptions), but it is very difficult to control," Rojas said.

Since October, the Star-Telegram has detailed problems with gray-market adoptions and the plight of U.S. couples willing to pay thousands of dollars to baby brokers on the mere promise of a child. A Bedford couple said they paid three intermediaries—Becci Kelley of New Market, Iowa, Debbie Tanner of Willcox, Ariz., and Bryan Hall of El Paso—more than $7,000 for a baby from Mexico but never received a child.

Hall, Tanner and Kelley have maintained that their adoption network, which uses lawyers in Mexico and private adoption agencies in the United States to link adoptive couples with children, has broken no laws. The three claim to have placed as many as 400 Mexican children with parents in the United States.

However, complaints from more than 80 couples that they paid for babies they never received has led federal and state officials to investigate the three and their operations.

Officials with DIF have called a conference for February to discuss socio-economic problems including gray-market babies, abandoned children and the growing number of women crossing the border to give birth.

"Their view is that they are not Korea or an Asian nation, and they do not export their children," said Michael Lauderdale, director of the center for social work research at the University of Texas in Austin and principal investigator for Region 6 Resource Center for Children, Youth and Families.

"No one has any good data," Lauderdale said. "We understand that a great deal of adoption is going on—a lot of it—under the table.

"There are people in the Mexican government who are embarrassed by what is happening, Mexican officials view so called gray-market adoptions as illegal," Lauderdale said.

He and several of his associates have been invited to the seminar Feb. 20–24 in Mexico City to discuss adoption laws and other social and economic issues affecting both Mexico and Texas.

"They have asked us to hold a conference to look at gray- and black-market adoptions and what to do with abandoned children, some of whom have at least one American parent," Lauderdale said.

The social issues grew out of an economic conference held June 25 in El Paso under direction of George Rodriquez, director of the Governor's Office of Regional Development in El Paso, in conjunction with the University of Texas at El Paso department of social studies.

"A lot of this is tied to the progressive devaluation that has affected the peso," Rodriquez said. "The problems have grown very, very rapidly as the Mexican economy has grown weaker.

"Some common problems will become greater as the population grows larger," Rodriquez said. "A lot of American children are born in Mexico, and no one knows quite what to do with them, if, for example, the American parent dies or abandons them. Some of them are entitled to Social Security and other benefits. We are trying to clarify who is responsible and what resources are available."

Lauderdale said he heard at the June meeting that 20,000 to 30,000 women each year cross the border to give birth in this country.

"A lot of Mexican women very wisely come here to give birth in order to provide an alternative for their children in case the Mexican economy gets even worse. The border is very open," he said.

If all the children began demanding services, it could cause some severe economic problems in this country, he said.

Lauderdale has a grant from the Children's Bureau, a division of the department of Health and Human Services, to study that problem and others.

The February meeting is a follow-up to a meeting in Juarez in November, which was an outgrowth of the June meeting in El Paso.

Rodriquez said issues discussed at the first meeting were primarily economic and involved a much broader range of problems than gray-market babies. The babies are only one part of a much larger economic problem he said.

"People involved are from some very poor states. What's happening is that people are looking for money," Rodriquez said. "I don't believe there is a big organized ring (of illegal adoption activity). It's just a matter of necessity."

The meeting in Mexico City is being organized by DIF, which is traditionally under the direction of the Mexico's first lady, Paloma Cordero de la Madrid, and sets regulations on issues ranging from birth control to juvenile delinquency.

"The children involved are under the protection of the first lady," Kaufman said.

"The laws are being changed because the first lady of Mexico doesn't want Mexican children abducted by foreigners,' Emma Bermudez, a representative at the Mexican consulate in Dallas, said. "She doesn't want to give children to foreigners."

"They are very protective of their children," said Elizabeth Carroll of the U.S. Embassy in Mexico City. "They consider dual nationals to be Mexican, where we consider them dual (citizens of both Mexico and the U.S.) until they are 18."

The embassy has been studying the laws regarding adoptions and foster children because of the growing number of adoption requests received, she said.

"We are aware of complaints of irregularities, and we look very carefully at the visas we give for Mexican children going to the United States," said Tom Johnson, director of consular affairs at the U.S. Embassy in Mexico City.

"As far as we know, the papers are legal, but there seems to be a pattern of babies born at one place, birth certificates filled out at another and registration at another. We are checking into it," Johnson said.

He said the embassy processes one to two visas per week for children going to the United States.

"Considering the demand for babies in the United States, I do not think that is unusual," Johnson said. "That is the only border in the world between a third-world country and a highly developed country."

Many of the visas involve at least one Mexican parent or United States citizens living in Mexico, Johnson said.

Dr. Guillermo Flores Margadant, a visiting professor from Mexico City who teaches Mexican law at the University of Texas Law School, said when it comes to foreign adoptions, most officials in Mexico agree that federal law should be applied.

The federal Civil Code of Mexico puts very little restriction on adoptions, requiring only that the adopting parents be at least 25 years old and the adoptee be a minor at least 17 years younger, Margadant said.

"You have to prove that your income is sufficient and that the adoption is good for the person being adopted," he said. "If you are married, your spouse must give consent, the mother or guardian of the child must give consent and the state attorney must approve the adoption and register it with the court of civil procedure."

The only thing unusual about adoptions under Mexican law is that the financial relationship between the child and natural parent is not broken by the adoption, Margadant said.

Margadant said there is nothing in the law requiring the child to be a certain age before parental rights can be relinquished, nor is there any prohibition against international adoption in the law itself.

"There is always the preference for couples of Mexican nationality, but if a foreigner wants to adopt a child, it is possible," Kaufman, of DIF, said. "No law whatsoever says anything against a foreigner adopting a baby from Mexico, but for each child available, there are 50 to 60 requests from Mexican citizens, and we give preference to Mexican couples."

Rojas said that for a couple from the United States to adopt a Mexican baby, it is necessary to fill out adoption forms obtained from the Mexican consulate and return them with a copy of the couple's marriage certificate, a front and a profile picture of each adopting parent, an up-to-date tax return showing economic solvency and a certificate of good behavior from the community in which they live stating that neither adopting parent has a criminal record.

"All must be translated to Spanish by an excellent translator and the translation must be certified by the Mexican consulate," Rojas said. Then both the originals and translations must be sent to the national DIF office in Mexico City.

A baby whose parent gives him or her up to a foster home is eligible for adoption immediately while an abandoned child must wait six months while authorities make certain that the child is in fact abandoned, Rojas said.

[From the Fort Worth Star-Telegram, Jan. 26, 1984]

TEXANS FIGHT PRIVATE ADOPTIONS

(By Carolyn Poirot)

Independent adoptions will be outlawed in Texas if adoption agency lobbyists have their way in the next session of the Legislature.

"The push in Texas for 1984 is to put independent adoption people out of business," Bill Pierce, chairman of the National Committee for Adoptions said.

Texas Committee for Adoptions and Texas Association of Licensed Children's Services are both lobbying for legislation to do away with independent adoptions except in the case of stepparent or other within-the-family adoptions, Pierce said.

"They will be pushing for a good bill from the 1985 Legislature," he said.

Currently, independent adoptions--those arranged by lawyers, doctors, clergymen, adoption counselors and others not licensed to place children—are illegal only in Michigan, Minnesota, Massachusetts and Connecticut.

"Our number one priority this year will be trying to close the loopholes that apparently make possible a lot of the black-market and independent adoptions that are going on," said Howard Hullett, president of Texas Committee for Adoptions.

"We have been real concerned about the kind of practice doctors and lawyers engage in. It muddies the water for people trying to do these things well," Hullett said.

"The problems people are having getting babies from Mexico is the type of thing that happens when lawyers and doctors get involved in this type of social phenomena," Hullett said.

"We would like to do away with independent adoptions to prevent just what happened in those cases," said Madge Watson, president of Texas Association of Licensed Child Services and director of Lee and Bulah Moore Children's Home in El Paso.

In the case of Mexican adoptions, some U.S. couples have paid thousands of dollars to adopt a baby but never have received a child.

The Star-Telegram last October began printing a series of stories dealing with the financial, social and legal problems of gray-market adoptions.

More than 80 U.S. couples, including a couple from Bedford, say they have lost thousands of dollars in trying to adopt children from Mexico through Bryan Hall of El Paso, Debbie Tanner of Wilcox, Ariz., and Becci Kelley of New Market, Iowa. The couples never received a child.

Hall, Tanner and Kelley have maintained that their adoption network, which uses lawyers in Mexico and private adoption agencies in the United States to link adoptive couples with children, has broken no laws.

However, federal and state officials are investigating the three to determine if the couples who paid but never received babies have been defrauded. And the Iowa attorney general's office has sued the three, seeking a court order prohibiting them from operating in that state.

None of the three are licensed to place children.

"With independent adoptions, you get all sorts of people involved in adoptions with no expertise and no interest in the child. They just get into it for monetary gain," Watson said.

"There shouldn't be any profiteering from adoptions," Pierce said. "This has the potential for giving a terrible name to adoptions in general."

Adoption advocates will be working to strengthen the laws governing adoptions in Texas through the state's Family Code.

"We are trying to set up a situation where doctors and attorneys and private individuals are not seeking adoptive parents for a girl's child and placing a child with them. That is not their area of expertise," said Eleanor Tuck, executive director of the Edna Gladney Home in Fort Worth and an active member of both organizations.

"In private placements the young woman is not protected, the baby may end up in limbo and the adopting parents are not as protected as they ought to be," Tuck said. "I think the Family Code is the place to start if we want to assure those protections."

Except for stepparent adoptions, some authorities say independent adoptions are almost always illegal in Texas because those involved as middlemen or liaisons take an active part in bringing together the birth mother and the adopting parents.

That active participation in the child-placing process is forbidden in Texas to anyone not licensed by the state for child placement, except for the natural parent or legal guardian.

The only exception, according to a 1974 attorney general's ruling on the Family Code, is when the lawyer, doctor, clergyman or other person involved in the adoption has managing conservatorship of the child.

"When authorized by court order a managing conservator stands in the shoes of the parent." former Attorney General John Hill said in his opinion.

"That is the ruling that opens the loopholes wide," said Bill Schur, a Fort Worth lawyer whose firm handles more than 800 adoptions each year and does most of the legal work for the Edna Gladney Home.

Schur believes anyone who goes to court to obtain managing conservatorship of a child is already involved beyond legal limits in the placement of that child, but the conservatorship ruling is used to justify the process.

"By the very act of going to court, you are admitting that you have already begun seeking a home for the child," Schur said. "It is, in fact, a confession that the child-placing activity is already in progress. "I don't do private placements," Schur said. "I personally think they are illegal. To get around the law, attorneys sometimes go the court and ask for managing conservatorship of the child.

"The attorney general has ruled that the managing conservator has the same legal rights as the parent to place the child for adoption. If that is true, there is no need for licensing laws," Schur said. "Why battle the hassles of licensing requirements when you can just obtain managing conservatorship of the child you want to place?"

Under Texas law, the mother can sign relinquishment papers at any time after the birth of the baby as long as she is not under the influence of drugs, including pain pills.

Attorneys involved in gray-market adoptions often get the mother to sign relinquishment papers naming them managing conservators of their babies immediately after birth. Then the attorney can place the baby with anyone he wants, usually an adopting couple willing to pay a premium price for the "legal fees" involved.

Because the attorney cannot sell the baby, he sells his services.

"Most of the placements will be good, but the process allows bad placements to be made," Schur said.

"With an agency, the licensing standards are very extensive. There are things agencies have to do that those involved in independent adoptions don't," he said.

One of the most significant things it that an agency is required to complete a home study on the adopting parents within a year before the baby is placed in the home. With private adoptions, a home study must be completed before the adoption is final, but the baby is often in the home several months before the study is even begun, Schur said.

Because the adoption cannot be final until after the baby is in the home for six months anyway, the study in private adoptions is usually done sometime during that six months.

By the time a judge becomes involved, bonding has taken place and many judges are reluctant to refuse to finalize the adoption except for grave reasons.

"The judge is not likely to see the file until the baby is in the home several months. There is no time requirement, except that it has to be done before the adoption is finalized," Schur said.

In private adoptions, there is also very little counseling with either the birth mother or adopting parents, he said.

[From Fort Worth Star-Telegram]

Discrepancies Tangle the Truth in Adoptions

INFANT'S LOCATION UNKNOWN

(By Stan Jones and Frank Trejo)

Gomez Palacio, Mexico.—Rosa Elena Batres believed that she was giving her newborn daughter up to adoption by a Bedford couple in March 1983.

Eleven months later, the child's whereabouts are unknown.

The adoption never took place. The Bedford couple, who paid $6,700 to Bryan Martin Hall of El Paso, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa, said their money got them nothing but heartache.

Batres said Friday that she hasn't seen the child since its birth and believed that the child had gone to the Bedford couple.

Although adoption papers are confidential both in Mexico and the United States, the Star-Telegram obtained copies of paperwork for two adoptions, including that of the Bedford couple. The documents listed the names of the biological mothers and their home addresses in Mexico.

At the address listed on one adoption, in Ciudad Juarez, the family residing there said they had never heard of the woman listed on the adoption document.

Hall had said in December that women who gave up their children for adoption might use fictitious addresses or names to hide the shame of their actions.

But at the other address, in Ciudad Lerdo, near the city of Torreon in north central Mexico, a woman who identified herself as Rosa Elena Batres acknowledged that she had given up her infant daughter for adoption in 1983.

Batres said she was separated from her husband when she discovered that she was pregnant with her second child. Unable to support two children, the young mother said she heard of a midwife in Gomez Palacio "who could help me."

Batres visited the midwife, known to her only as Elisa, who suggested that her baby be placed for adoption. Batres agreed.

Batres said she gave birth in Elisa's home and signed documents giving the child up for adoption to the Bedford couple.

Batres, who speaks only Spanish, said the papers were in Spanish and that she understood what was written.

The Bedford couple said Saturday that they learned of the child through Hall, Tanner and Kelley. The husband said he held and fed the child in April 1983 during a visit to a baby sitter's house in Juarez.

But the couple never saw the child again. They said Hall, an adoption intermediary, cited delay after delay in the adoption process. In August, the couple said they gave up hope of getting the child and asked Hall for their money back. Their money has not been returned.

Hall said during an El Paso interview in December that the adoption paperwork to unite the Texas couple with the Mexican infant was completed in July 1983. Hall said the couple backed out after learning that they were going to have a baby.

Hall said that since then, the child has been staying with a baby sitter in Mexico. He said he had been unable to give the baby to another adoptive couple because he could not find the child's mother. The mother would have to sign a new document to surrender the child to a different adoptive couple, he said.

The Star-Telegram had little difficulty locating the mother. Batres is still living at the Lerdo address listed on the adoption paperwork.

Batres said she never heard of Hall, Tanner or anyone else connected with the adoption network.

[From Fort Worth Star-Telegram]

TOWNSFOLK DENY INVOLVEMENT IN NETWORK

(By Stan Jones and Frank Trejo)

TORREON, MEXICO.—At the end of a narrow, curbless street that just off this city's main thoroughfare stands a tiny booth leading into the red-light district.

The locals call it the "zone." Made up of about four wall-encircled acres of tiny rooms, filthy bars, drunken men and enticing women, it is a place where money will satisfy almost any desire.

It takes money—5 pesos per person—just to pass by the booth and enter the district, supervised by the city. The fee, says a sign, goes to a Torreon day-care center.

Most of the women's rooms are bare save for a small bed, a bucket of water and toiletries and perhaps some pictures of naked women. The sheets on the mattresses are stained, and foul odors linger in the air.

It is in just such a setting that many of the Mexican children adopted by couples in the United States are conceived, according to Bryan Hall of El Paso, who says he translates adoption papers from Spanish to English.

Hall and Debbie Tanner of Willcox, Ariz., are key members of an adoption network operating between Mexico and the United States that is under investigation by state and federal authorities in both countries. The two say they have participated in 200 to 400 successful adoptions of Mexican children by couples in the United States since 1978.

Hall and Tanner have been vague in discussing the sources of the children who are adopted, but in an interview with the Star-Telegram in December, Hall, who manages a topless bar in El Paso, said the Torreon area supplied many babies, and "when you're dealing with a child (for adoption) in Mexico, the women probably are prostitutes."

The prostitutes of Torreon deny this. The few who agreed to discuss the job-related hazard of pregnancy said there is no organized system for giving up unwanted children.

"Any girl who becomes pregnant has to take care of it on her own. There is no one place to go," one woman said. "Some girls go to Matamoros or Tamaulipas."

The Star-Telegram has been investigating the gray market in babies since October, exposing problems with Mexican adoptions handled by Hall, Tanner and Becci Kelley of New Market, Iowa.

The articles have detailed the plight of U.S. couples who are so desperately seeking to adopt children that they have paid thousands of dollars on the mere promise of a child. Among them is a Bedford couple who said they paid $6,700 to Hall, Tanner and Kelley for a baby. Like more than 80 other couples in at least 16 states the Bedford couple never received a baby.

They are among an estimated 2 million couples nationally who are waiting to adopt children. During 1983 an estimated 60,000 children were adopted nationally—only 13,771 in Texas.

The numbers of couples seeking to adopt are so great and the infants available for adoption so few that many of the couples turn to baby brokers—professionals who wheel and deal in a gray market for babies under the guise of inflated legal and medical charges. Baby brokers often are doctors and lawyers who know where the babies are and what they're worth to adoptive parents. They put them together—for a fee.

The FBI is investigating whether Tanner, Kelley and Hall defrauded the couples who paid for adoptable babies but never received them or their money back. Officials in six states also are investigating the three.

Hall, Tanner and Kelley maintain that they have broken no laws.

Mexico, a stronghold for Catholicism, considers abortion a crime and adoption a form of abandonment. It is government policy and a religious dictate that the family remain intact.

Child welfare officials in Mexico are skeptical that large numbers of children born in Torreon have been funneled to U.S. couples for adoption. If such a practice has gone on, the officials said, it may not have gone through the proper channels.

Although adoptions of Mexican children by foreigners are legal, Mexican officials say the government must handle all adoptions. They also acknowledge that it is almost impossible to stop adoptions of Mexican children handled privately.

Even Viola Anthony, a widow who Mexican national Ermila Hernandez says duped her into giving up her four daughters for adoption in 1981, said Mexicans, no matter how destitute, rarely break up their family.

"Never mind how poor they are, they don't want to give up their kids," said Anthony, 71, who lives in the small village of Arteaga on the outskirts of Saltillo, the city where Hernandez was reared and gave birth to her four children.

Hernandez, now living in Albuquerque, N.M., contends that Anthony, Hall, Tanner and Juarez lawyer Lorenzo Prospero preyed on Hernandez's lack of education to get her to sign documents terminating her parental rights to her children.

Both in Mexico and the United States, child-placement authorities believe that Tanner and Hall have greatly exaggerated the number of successful adoptions they helped to complete.

Nonetheless several families in the United States, most of them members of the Church of Jesus Christ of Latter-day Saints (Mormon), have adopted Mexican children through Tanner and Hall. Tanner also is a Mormon.

In 1982, at least 24 adoptive couples attended a "reunion" in Salt Lake City, sponsored by Tanner, to show off their newly adopted children, said one Mormon family who attended Torreon or its sister cities Gomez Palacio and Ciudad Lerdo were listed as the origin of many of the adopted children, said one adoptive mother, who asked not to be identified by name for fear of losing her 3-year-old adopted daughter.

Tanner brought a photo album to the reunion containing "a few hundred pictures" of other couples who had adopted Mexican children through her, the woman said.

One couple in Salt Lake City said Mexican adoption documents show that their child was born in Hospital Paternal Infantil in Torreon.

"It's illegal for the doctors to get involved in that sort of thing," said the Salt Lake City adoptive father. "Hall and these guys knew it was illegal. Hall said the doctor was getting paid off like the judge and everybody. He said that's just the way you do business down there."

Hospital directories in Torreon contain no listing for such Hospital Paternal Infantil, and Star-Telegram reporters were unable to locate any hospital or clinic by that name during a two-day visit last week.

But nearby Lerdo boasts the largest "birthing clinic" in the three-city area, with a name similar to the one listed on the Salt Lake City couple's adoption papers.

The health center and hospital of Lerdo, normally referred to as Centro Maternal Infantil (Central Maternal Infant hospital), brings more than 120 babies into the

world each month, said Dr. Guillermo Rodriquez, the hospital director. The hospital also has a social services department that coordinates adoptions between single mothers and adoptive parents in Mexico on a limited basis, Rodriquez said.

The family planning section, which is responsible for adoptions, was run by Dr. Francisco Lopez, 42, who died Monday night in Gomez Palacio when his car collided with a bus, said authorities at the Ministerio Publico (Public Ministry) in Gomez Palacio. The authorities said Lopez apparently ran a red light at about 9:30 p.m. and struck the bus, which was empty except for a driver. Lopez was killed instantly, authorities said. There were no other injuries.

Rodriquez said that in his position, Lopez "might have been aware of women who might want to give up their children."

However, Lopez's wife, Maria Elena Lopez, said her husband did not deal with couples in the United States seeking to adopt.

Kelley, who worked closely with Tanner in adoptions to couples in the United States along the East Coast, said Tanner told her that a woman named Sonya was married to a doctor in Torreon who furnished babies for adoption. The doctor's name was not given.

Kelley said Sonya and her husband were paid between $1,800 and $2,000 for each child they obtained for adoption by a couple in the United States. In an interview in December, Tanner said most of the $5,000 to $6,000 that couples paid to adopt a Mexican child went to the hospital where the child was delivered.

But Rodriquez said expenses at his hospital rarely run more than $50 per child, including delivery fees and care for the mother.

Rodriquez said that of the two to three adoptions processed through the hospital a year, which never have involved couples in the United States, costs were less than $100. Mexican couples that adopt with the help of the hospital are required to pay only the mother's $50 medical costs and filing fees with the government registry.

Occasionally, Rodriquez said, hospital staff members hear of attempts from adoptive parents to pay mothers to give up their children for adoption. The last attempt was made about five months ago, he said, and the mother was offered between $60 and $100 for her child.

"We do not allow such a thing," Rodriquez said. "If we find out, we tell the mother and the couple that we will not permit the selling of babies on hospital property."

Child-welfare officials in Torreon, an industrialized city and hub for scores of tiny villages scattered along the barren, desertlike Mexican interior, expressed surprise that adoptions were taking place.

The major hospitals in Torreon, including the Hospital Infantil Beatriz Velasco de Aleman, the state-run infant hospital in the heart of the city, handle no adoptions, hospital administrators said.

Francisco Velez, administrator of Hospital Infantil, said only two or three abandoned children are processed each year, and those cases are referred to the Tribunal Tutelar Para Menores (Tribunal for the Protection of Minors), the city's child-welfare program. Other hospitals said they also refer such cases to the tribunal, which has sole authority to take care of abandoned children.

Maria del Rocio Aguirre, director of the welfare program, said abandoned children are placed in a foster home or orphanage. None of the children is placed for adoption, she said. Last year, her office processed 130 abandoned children. The parents or relatives of all but four were located and reunited with the children, she said.

"I find it hard to accept that that many Mexican children would have been allowed to leave the country (for adoption)," Aguirre said. "Even in our cases, where we are talking not about permanent adoption but temporary foster homes, we try to keep the children in the immediate region, and we never place them with foreigners."

[From the Fort Worth Star-Telegram, Jan. 29, 1984]

Role in Adoptions Born of Love, Woman Says

(By Frank Trejo)

Arteaga, Mexico.—Viola Anthony says her problem is that she is too kindhearted. She loves children. And she loves to help people.

That is why, at least twice in the last three years, she has helped local women find a solution to financial problems by giving up their children for adoption.

One of those women is Ermila Hernandez, a 32-year-old Mexican national living in Albuquerque, N.M., who contends that Anthony was among several people who tricked her into giving up her four daughters. Hernandez says the four girls were supposed to be placed in a temporary foster home while she obtained work in the United States. Instead, they were given up for permanent adoption by U.S. couples, she said.

For three years, Hernandez said, she has lived through a nightmare—searching for her daughters.

Although Hernandez acknowledges that she signed papers, she says the papers were written in English, which she can't read, and she did not know she was giving the children away. She blames Bryan Hall of El Paso, Lorenzo Prospero of Ciudad Juarez, Mexico, and Anthony, a 71-year-old U.S. citizen living in Arteaga, Mexico.

During an interview with the Star-Telegram last week in her home, Anthony denied that Hernandez was misled. Anthony said Hernandez knew from the start that if she went to Juarez, where the adoption took place, she never would see her children again.

"I told her, "Think about this very carefully, this is your family you're talking about,' " Anthony said. "I told her, 'If you don't want to go to Juarez, you don't have to go. Don't go.' "

Anthony says she did nothing illegal in finding adoptable children for the international adoption network operated by Hall and Debbie Tanner of Wilcox, Ariz.

Mexican officials say all legal adoptions in that country must be handled by the government ministry in charge of family affairs.

Federal officials and authorities in six states are investigating Tanner, Hall and Becci Kelley of New Market, Iowa, to determine whether they have defrauded U.S. couples who say they paid thousands of dollars to the three for adoptable Mexican babies they never received.

In October, the Star-Telegram began investigating problems with adoptions in the gray market. At least 80 couples from 16 states, including a couple from Bedford, have complained that they paid between $3,000 and $7,000 to Tanner, Hall and Kelley for adoptable Mexican children they never received.

The Bedford couple said they paid $6,700 to Tanner, Kelley and Hall three years ago for a baby. They never received the baby and finally asked for their money back. It has not been returned.

FBI agents from Washington, D.C., and three states converged on Albuquerque last week to review the progress of investigations into the activities of Tanner, Hall and Kelley.

Additional attention was focused on the adoption network after Hernandez's claims that her children were taken through trickery began to circulate.

An attorney for Hernandez said last week that birth certificates for three of the four children that Hernandez said she unwillingly gave up for adoption were altered when filed with Mexican officials in Juarez.

Josephine Rohr, an Albuquerque lawyer, said "significant discrepancises" exist between birth certificates filed during the adoption process and the children's original birth certificates.

Three of Hernadez's children, ages 11, 10, and 4, were born and registered in Saltillo, about 50 miles west of Monterrey, Rohr said. In 1981, however, new birth certificates were prepared for the children to show the names of their adoptive parents, she said. Those documents were filed in Ciudad Juarez, Rohr said. The fourth, a newborn child, was registered only once, Rohr said.

Hernandez's two oldest girls, Maria and Paula are believed to have been adopted by a Colorado couple, Joe and Madalyn Sutherland. The Sutherlands said earlier this month that when they met Hernandez in Juarez in March 1981, she was fully aware that the children were being given up for adoption.

Anthony said she has no knowledge of any wrongdoing by anyone involved with the network. She said she does not know what Hernandez was promised nor what legal proceedings took place concerning the adoptions.

"I just called Butch (Hall) and I said, 'Here is this family that wants to go to the states,' and they (Hall and Prospero) came down and talked to her (Hernandez)," Anthony said.

Anthony said she first learned of the adoption network several years ago through a man she met at an American consulate. She said she could not remember the man's name.

"Then one day, sometime later, this car came up by my door and this guy he said, 'You may think I'm crazy, but if you ever hear of anybody wanting to give up their children for adoption, call me,' " Anthony said. She said the man in the car was the same man she met at the consulate.

But Anthony said finding such children proved difficult.

"Never mind how poor they are, they don't want to give up their kids," Anthony said. As a result, she said, the Hernandez children and one other child were the only ones she helped locate.

"I'm crazy about kids," Anthony said. "I'm always willing to help. I was only doing it for the love of the kids."

Anthony said she decided to retire in Mexico with her husband 12 years ago. Her husband, who died five years ago, convinced her to leave New York, Anthony said, after he read a book titled "Fabulous Mexico." The book, she said, promised that a person could live in Mexico on $1,000 a year.

Part of the motivation for helping locate adoptable children, Anthony admitted, was financial. It was agreed that Hall would pay her $10 a day for each person she put up in her home while the adoption proceedings took place.

Hernandez has said she was told by Hall, after the adoptions became final, that Anthony was paid $4,100 for helping find the children. Anthony said she received only "$2,000 and some change," for expenses incurred during the months that Hernandez and the four children stayed at her house.

"And I also paid her (Hernandez) to help me out around the house, even though I really didn't need the help," Anthony said.

Although the woman admitted that she had been asked to look for adoptable children, Anthony said it was Hernandez's idea to give up her children for adoption. When Hernandez expressed an interest, Anthony said, she immediately contacted Hall, who explained the process to Hernandez.

"I'm not involved in her giving up her kids at all," Anthony said. "I don't know what Bryan explained to her."

Anthony said that at first, she wanted to adopt Hernandez's newborn baby girl and that Hernandez agreed to the adoption, saying she did not want to even see the baby after it was born.

Anthony said the baby was taken to a friend's house, but Hernandez changed her mind about letting her adopt it.

"She (Hernandez) got up, she was crying. I said, 'Take your baby. I don't want anything to do with it.' "

However, Anthony said she came to view Hernandez and the girls as "part of my family. I actually cried when they left."

Anthony said that because of the reluctance of Mexican families to give up children for adoption, she only participated in one other adoption—that of a day-old baby about two years ago. About that time, she said, she also brought another child into her own home.

Although she wanted to adopt the baby, she said it would have been difficult for her to adopt him because of her age and because she was not married. Instead, she said, the baby was adopted by the sister of a close friend and Anthony said she has reared him as her own for two years.

[From the Fort Worth Star-Telegram, Feb. 9, 1984]

Woman Tells of Cash Flow in Adoptions

(By Stan Jones)

An international adoption network paid Mexican mothers to give up their children for adoption by couples in the United States, a woman who helped obtain babies for the network has told the Star-Telegram.

Fanny Hatch, 71, who was born in the United States but has spent most of her life in Mexico, said that between 1978 and 1980 she paid pregnant Mexican women in Hermosillo, about 300 miles south of the Arizona-Mexico border, varying amounts of money in exchange for putting their children up for adoption.

Hatch said Debbie Tanner of Willcox, Ariz., a key member in the adoption network's hierarchy, reimbursed her for the money she paid the Mexican women.

"I would tell her (Tanner) how much I spent and she would send it to me," said Hatch, a longtime resident of Hermosillo. "I think I told her exactly how it was spent. There was never any disagreement on that."

The operations of the adoption network are under investigation by state and federal authorities in the United States and Mexico. A major facet of those investigations focuses on how the children offered for adoption to U.S. couples were obtained.

Mexican law prohibits the buying and selling of babies but does not specifically define the offense, as does Texas law. It is not illegal, for instance, for a mother's

medical costs to be paid by adopting parents. But it is unclear whether additional money paid to a mother constitutes the sale of a child.

The criminal code of Mexico provides imprisonment for up to three years and a fine of 1,000 pesos for violating any of the human rights guaranteed by the constitution, said Guillermo Margadant, a visiting professor of law at the University of Texas. The fine, about $17 in U.S. money at the current exchange rate, is small because the law has not compensated for devaluation of the peso, Margadant said.

"That law would apply to buying and selling children because it is a form of slavery, and slavery is prohibited by the constitution," said Margadant, who practiced and taught law in Mexico City.

Hatch said, however, that she wasn't buying children but was "taking a baby to help the mother."

"What are you going to do if a baby is starving and you (a mother) are hungry—without food—and you give someone your baby and they give you some money to keep you going? Now is that selling your baby or what is it?" Hatch asked in a telephone interview with the Star-Telegram from Mesa, Ariz., where she and her husband moved a year ago.

Officials of the Mexican consulate in Washington, D.C., and government officials in Mexico City refused to comment, without a formal written request, on whether Hatch's role was a violation of Mexican law.

In one instance, Hatch said a woman brought an infant to her ranch in Hermosillo in 1979 and offered to sell the baby for 3,000 pesos, roughly $150 in U.S. money before dramatic devaluations of the peso in 1982.

"I said, 'Selling a baby for 3,000 pesos?' And she said, 'I don't have any work, we don't have any food and we're hungry,' " Hatch said. "So I said, 'Well yes, I'll take the baby, but not for that price. You need more money than that.' "

"So, eventually, I did give her more money than she asked for, just because it was the only fair thing to do with her," Hatch said. Hatch did not recall how much the mother was paid to give up her child, which she said was placed by Tanner with a U.S. couple.

Hatch said that in most cases, mothers were given room and board money during pregnancy plus more than $400 after the child was born "so they could get back to work." One woman was paid $900, including room and board, while others were paid less, she said. One woman was paid nothing, she said.

"It was just the difference in what the girls wanted, mostly," she said. "There was no norm."

Hatch also defended Tanner against claims by U.S. couples that they paid for a child they could adopt but never received a baby. She said that Mexican mothers often would break a promise to give a child up after giving birth.

"I know that lots of people would say they would give their baby and after you give them money and everthing, it was quite common for them just to walk off and leave you holding the bill," Hatch said. "It didn't happen to me too often because I got onto it right quick, but this could happen.

"It hasn't been easy for (Tanner)," Hatch said. "Often, the whole thing falls through because the mother has decided to keep (the baby) or many times the baby would die. So there's been a breakdown many times, which has made it very hard for Debbie, and I can understand that."

Tanner, Bryan Hall of El Paso and Becci Kelley of New Market, Iowa, are the focus of federal and state investigations in the United States into claims that more than 80 American couples in at least 18 states were defrauded of between $3,000 and $7,000 each for adoptions that were never completed. The couples said they paid the three for children they never received and they never got their money back.

The trio have maintained that their adoption network, which uses lawyers in Mexico and private adoption agencies in the United States to link adoptive couples with children, has broken no laws. Tanner and Hall claim to have placed as many as 400 Mexican children with parents in the United States.

Tanner has denied any wrongdoing. She could not be reached for comment concerning payments to Mexican mothers. Her attorney, Sib Abraham of El Paso, promised a statement but never called the Star-Telegram. Abraham had a death in his immediate family on Monday.

Tanner's husband, Terry, said, "No mothers were ever paid. That's illegal. And Debbie does not do any illegal adoptions at all."

The Star-Telegram has been investigating the gray market in babies since October, detailing the plight of U.S. couples who are so desperately seeking to adopt children that they have paid thousands of dollars on the mere promise of a child. Among them is a Bedford couple who said they paid $6,700 to Hall, Tanner and Kelley for a baby they never received.

They are among an estimated 2 million couples nationally who are waiting to adopt children. During 1983, an estimated 60,000 children were adopted nationally—13,771 in Texas.

Hatch, who said she and her husband raised grapes on a small farm in Hermosillo before returning to the United States, said she was involved in the successful adoptions of six to eight Mexican children by United States couples between 1978 and 1980.

Another U.S. woman, who recently moved back to Utah from Mexico City, said Hatch paid $600 in 1980 to her Mexican maid, who gave birth to twins. The payment—at $300 per child—was for the mother's agreement to relinquish her parental rights to the infants, the woman said.

"(Hatch) gave the mother $200 and I kept $400, which I deposited with the girl into the bank and she withdrew it at my say-so, which had to be for food and clothing," said the woman, who spoke with the Star-Telegram only on the condition that she not be identified by name for fear of being associated with Tanner's organization.

The woman, a Mormon and the wife of a Mexican national and doctor, said she came in contact with Hatch through Tanner. She said she learned of Tanner from a friend in the United States who was trying to adopt a baby through Tanner.

The woman said Tanner told her that Mexican women who give children up for adoption were normally paid $500 per child. The woman said the maid, who was 16 when she gave birth, was paid less because, "I told them I'm not going to let you hand over that much money to that little girl.

"It would have becomes a business for her," the woman said. "If she thought she was going to get that much money, she would have become a baby factory."

Hatch denied any involvement in that adoption.

Kelley denied any knowledge that Mexican mothers were paid in exchange for giving up their children for adoption and said that "if I had any indication that any of my children that I helped to place were literally bought, that child would not have been placed by me."

Hatch said she was one of several people in Mexico who helped find children for Tanner and said she did not believe the practice of paying mothers hundreds of dollars for their children was illegal.

"These were legal adoptions," Hatch said. "The mothers signed the papers relinquishing (their parental rights). How could it be wrong helping a person through a pregnancy? It was just like saving a baby from no future at all to a good home. I didn't feel there was anything wrong about it.

"I never did say, 'I'll give you this much money for this baby.' I would say, 'How much do you need?' " Hatch said. "Here's a baby that'll never make it unless it gets into a good home and (the money) was merciful to help the mother, but the important thing to me always was this baby will have a future."

Marco Antonio Rojas, an attorney for Mexico's Department of Family Development, that country's equivalent to the U.S. Department of Health and Human Services, said any adoption arranged without agency approval is illegal. However, Rojas' interpretation of the law is not shared by attorneys in Mexico who routinely handle private adoptions.

Hatch, educated in Mormon schools in Mexico, said she met Tanner through her daughter, who knew the Tanner family when the Tanners lived in Colorado. She said Tanner called her in 1978 and asked Hatch to call her if she came across children available for adoption.

After helping an abandoned child find a home with an adoptive couple in the United States, Hatch said word spread in the city of Hermosillo that she handled adoptions. "I never did go looking for children," she said. "The only babies I got were people handing me babies and saying, 'I can't keep them.' "

She said she told pregnant mothers that she would give them money for room and board "on the understanding if I helped them through their pregnancy, I would place their baby for them."

Hatch said that part of the reason some mothers didn't give their children up was because of the social pressures in Mexico.

"I think most of the time, that's why mothers don't want to give up their babies. They feel like it's evil to sell their baby," she said. "They have a very guilty feeling when they do this, but they're desperate."

Hatch said that the women who did give their children up would be given enough money "to keep her alive and eating just barely . . . in one of the poorest, poor homes." When the baby was delivered, the women were given "six weeks money"—enough to see them through until they were fit to return to work, Hatch said.

Six weeks money, she said, would be at least 200 pesos per day, or $420 for the six weeks at an average rate of 20 pesos to the dollar during 1978 through 1980.

The majority of the adoption money she handled went to the Mexican mothers, Hatch said.

Hospital delivery costs often were free for Mexican women through government-run social security hospitals, Hatch said. Mexican attorney fees were normally about $500. Hatch said she also received money from Tanner for her services, but she said she didn't recall how much.

"It wasn't a business for me," she said. "It was something to do for girls that needed help."

[From Fort Worth Star-Telegram]

TWINS POSSIBLY SOLD FOR $600

(By Stan Jones)

A Utah woman believes she participated in an illegal adoption while living in Mexico by allowing her maid in Mexico City to be paid to give up her twins for adoption.

Ann Smith, not her real name, said her maid was paid $600 in 1980—$300 per child—for two newborns by a Hermosillo, Mexico, woman. The Hermosillo woman worked with Debbie Tanner of Willcox, Ariz., in arranging adoptions of Mexican children by couples in the United States, Smith said.

Smith said she questioned Tanner about the payments and "she assured me it wasn't illegal.

"She did not say they were buying babies. She did say they (the mothers) would be paid."

Smith, who spoke to the Star-Telegram only on the condition that her identity not be revealed because she doesn't want to be involved with Tanner, said she now believes the payments were illegal.

Smith said Tanner told her that Mexican mothers were paid $500 per child when they relinquished their parental rights and put the children up for adoption.

Smith said she would not allow her maid to be paid the "going rate" to give up her twins for adoption because she feared the maid would become "a baby factory."

"When I talked to Debbie Tanner the first time . . . she said their usual procedure was they paid the mothers $500 and that they pay their medical expenses," Smith said. "I explained that's an awful lot of money for a Mexican girl who has no education, that can't even tell you where she lives. I mean, she couldn't read to tell you the name of the streets.

"She (Tanner) said we'll just give you the money and you can use it at your discretion," Smith said.

Tanner, Bryan Hall of El Paso and Becci Kelley of New Market, Iowa, are the focus of federal investigations in the United States and Mexico. Authorities are trying to determine if the trio defrauded couples in the U.S. by taking money for, but never delivering, children for adoption and by improperly obtaining children in Mexico.

Tanner could not be reached for comment.

Her attorney promised a statement but never made one available to the Star-Telegram. The attorney, Sid Abramson, had a death in his family on Monday.

Tanner's husband, Terry, denied any wrongdoing by his wife and said no mothers were ever paid for their babies.

Hall and Kelley were not implicated in the Mexico City adoption.

Smith, who lived in Mexico City for five years until September 1983 while her Mexican husband completed his medical studies and residency, said she became involved with Tanner through a friend in the United States who was trying to adopt a Mexican child. She said the friend asked her to contact Tanner if Smith came across someone willing to give up a child for adoption.

In early 1980, Smith said her 16-year-old maid told her she was pregnant and asked Smith to adopt the baby. Smith, a Mormon now living in St. George, Utah, said she told the maid she would find another adoptive family and contacted Tanner.

The maid gave birth to twins one month prematurely, Smith said. Tanner told her that a married couple from Casas Grandes, a Mormon colony between Ciudad Juarez and Chihuahua, would fly to Mexico City and pick up the children. Tanner

told her the couple were relatives of Fanny Hatch, a child-finder in Hermosillo, Mexico, Smith said.

But one of the infants had lung problems and had to remain in the hospital longer than anticipated, Smith said. The couple from Casas Grandes flew in, waited on the children, but had to return before the children were released, she said.

The next week, Fanny Hatch and a woman Smith did not know flew to Mexico City from Hermosillo and picked up the children, Smith said. She said Hatch brought $1,000 to give to the mother for her two children.

"Then I told them, I'm not going to let you hand over that much money to that little girl," Smith said. "I just didn't feel that it was right. It would have become a business for her. If she thought she was going get that much money, she would have become a baby factory."

Hatch has denied any involvement in the Mexico City adoption.

But a Utah woman who adopted the twins, who also asked not to be identified by name, said Hatch did indeed pick up the twins in Mexico City from Smith. The adoptive mother said she stayed with Hatch for one might in Hermosillo after the twins were picked up.

Smith said Hatch gave the maid $200 in cash. Hatch gave $400 to Smith, who said she put the money in a bank account in the maid's name.

"I kept $400 which I deposited . . . which had to be for food and clothing," Smith said. "We did this over a period of about five months after the babies were born until she had bought food and clothing and things she needed for herself and her mother and her son." Smith said the maid lived with her mother in a tiny house with a 2-year-old son, born when the maid was 14 years old.

"They were sleeping on the floor without any mattresses in this little tiny cubby-hole—no stove, no blankets, no nothing," she said.

[From Fort Worth Star-Telegram, Feb. 11, 1984]

Lawyer Says Proof Exists of Fraud in Adoptions

(By Stan Jones)

The attorney for a Mexican woman who says she was tricked into giving up her four daughters for adoption said she can prove that the children were acquired by fraud. Josephine Rohr an Albuquerque, N.M., attorney, said she will request immediate action from the U.S. attorney in New Mexico next week to return the four adopted children to their mother, Ermila Hernandez.

"I have enough proof to go into court on all of them now," Rohr said Friday.

Rohr said FBI agents Thursday located the adoptive parents of Hernandez's youngest child, Hermelita. The child, who was 3 months old when adopted in 1980, is living with a couple in Utah, Rohr said.

Earlier, the FBI had traced two of the other three children to Joe and Madalyn Sutherland of Manassa, Colo., and another to a couple in Utah.

Rohr said that fraudulent birth certificates were filed for three of the four children in Cludad Juarez, Mexico, in 1980 when the children were adopted.

Hernandez, who claims that adoption intermediaries Debbie Tanner of Willcox, Ariz., and Bryan Hall of El Paso duped her into giving up her children, had originally registered the births of her three oldest children, ages 10, 8 and 5, in Saltillo, Mexico. Hernandez is a Mexican national.

Hall and Tanner could not be contacted for comment Friday.

In two cases, Rohr said, the names of the biological fathers were listed.

But when the children were adopted, fraudulent birth certificates were prepared to show the names of the adoptive parents, Rohr said. The certificates falsified the ages of the children, and two of them failed to name the biological father, Rohr said, in violation of Mexican law.

"They used certificates that were false in order to proceed with the adoption itself," Rohr said. That means that the adoptions themselves are illegal, she said.

"From inception to end, every action is tainted because the adoptions are tainted, period," she said.

The attorney said she will seek to have all four children returned to Hernandez.

Tanner, Hall and Becci Kelley of New Market, Iowa, are the focus of federal and state investigations into claims that at least 80 U.S. couples, including a couple from Bedford, were defrauded of between $3,000 and $7,000 each by paying for Mexican adoptions that were never completed.

The trio have maintained that their adoption network, which uses Mexican attorneys and licensed adoption agencies in the United States to link adoptive couples with children, has broken no laws.

[From Fort Worth Star-Telegram, Feb. 11, 1984]

IRS Asked To Investigate Adoption Network

(By Stan Jones and Dave Montgomery)

Treasury Secretary Donald Regan has asked the Internal Revenue Service to enter an investigation of a private adoption network operating between Mexico and the United States.

In a letter to U.S. Sen. Robert Dole, R-Kansas, Regan said he has asked IRS Commissioner Roscoe Egger to commit his agents toward "encouraging the investigation". And "coordinating national efforts" to determine if the adoption network has broken any laws.

Adoption intermediaries Debbie Tanner of Willcox, Ariz., Bryan Hall of El Paso and Becci Kelley of New Market, Iowa, are the focus of investigations by the FBI and the U.S. Immigration and Naturalization Service. At least 80 U.S. couples in 18 states said they paid between $3,000 and $7,000 each to adopt Mexican children. The couples said they neither received a child nor a refund of their money.

Dole had asked Regan to include the IRS in a comprehensive, nationwide investigation.

Dole and five other senators, including Lloyd Bentsen, D-Texas, introduced legislation in the Senate on Thursday to outlaw fraudulent international and interstate adoptions.

Bentsen, himself an adoptive parent, called for swift passage to reverse the "seamy scenario" of international adoption fraud.

In a brief speech on the Senate floor, Bentsen said a recent series of articles in the Fort Worth Star-Telegram "clearly demonstrates the need for this legislation."

Since October, the Star-Telegram has detailed the plight of U.S. couples desperate to adopt children either at home or from abroad. The newspaper began reporting on the Mexican adoption network in December.

Bentsen said the adoption ring may have been involved in as many as 400 fraud cases in 20 states. "Unfortunately," he said, the group's activities amount to "the tip of the iceberg in the largely unregulated world of international and interstate adoption."

The senator's daughter, Tina, was adopted from Norway about 30 years ago after Bentsen, then a young congressman, sponsored a private immigration bill permitting her admission into the country. She was described as "the billion-dollar baby" because Bentsen's bill was enacted as an amendment to a $1 billion tax bill.

The adoption bill would make it a federal crime, punishable by up to five years in prison and a $10,000 fine, to defraud adoptive couples. The bill would also prohibit unlicensed adoption intermediaries—with the exception of lawyers—from handling international or interstate adoptions.

The bill also would open the federal courts for defrauded couples to seek restitution from unscrupulous adoption intermediaries.

Scott Morgan, staff counsel for the Senate Subcommittee on Courts, which Dole chairs, said subcommittee hearings on the bill could begin as early as mid-March.

Morgan said he expects joint hearings before Dole's Judiciary subcommittee and the Subcommittee on Family and Health, which is chaired by Sen. Jeremiah Denton, R-Ala., one of the adoption bill's cosponsors.

Sens. Charles E. Grassley, R-Iowa, and Roger K. Jepsen, R-Iowa, also cosponsored the bill.

[From the Fort Worth Star-Telegram]

Adoption Clients Say Pregnant Girl Smuggled Into U.S.

(By Stan Jones)

A pregnant, 16-year-old Mexican national was smuggled into the United States and turned over to members of an international adoption network in 1983, a couple that cared for the woman and their attorney have told the Star-Telegram.

The smuggling was reported in April 1983 to the Federal Bureau of Investigation and the U.S. Immigration Service offices in Salt Lake City, said Alan D. Boyack, the attorney who represents the couple, but neither agency interviewed the undocumented worker.

The woman has since been returned to Mexico.

Boyack, of St. George, Utah, said he interviewed the undocumented worker in April 1983, after Bryan Martin Hall of El Paso turned the girl over to Brent and Debbie Minor, whom he represented.

The Minors had agreed—in conversations with Hall and Debbie Tanner of Willcox, Ariz.—to adopt the woman's baby after it was born. The Minors, also of St. George, Utah, said they picked up the mother at the home of Hall's parents in Springerville, Ariz. They said Hall met them at his parent's home and turned the woman over to them.

The woman was eight months pregnant, Boyack said, and had apparently entered the U.S. illegally after a man in Mexico offered to get her a job in this country as a maid. Boyack said the woman was unaware she was supposed to give up her child for adoption.

The juvenile had no documentation from U.S. immigration or the Mexican government to allow her to legally visit the United States Boyack said.

Tanner and Hall are key members of an international adoption network under investigation by federal and state agencies in the United States and Mexico. More than 80 American couples in 18 states, including a Bedford couple, have said they paid between $3,000 and $7,000 each to adopt Mexican children they never received. At least 100 U.S. adoptive couples did receive Mexican children through the network, however, and immigration agency investigators are trying to determine how some of the children were obtained.

Neither Tanner or Hall could be reached for comment Friday.

Their attorney, Sib Abraham of El Paso, was also unavailable.

Tanner and Hall have denied any wrongdoing in their adoption activities.

Dave Servello, supervisor investigator for the INS office in Salt Lake City, confirmed that the pregnant woman's story was under investigation. Servello denied Boyack's claim that the INS missed an opportunity to interview the woman in April 1983.

"If there were any possible way that (interview) could have been done, it would have been done," Servello said. He would not elaborate.

Rob Sutton, agent in charge of the FBI office in Salt Lake City, would not comment on the case.

Debbie Minor, who successfully adopted twins from Mexico with the help of Tanner in 1980, at a cost of about $10,000, said she contacted Tanner again in 1982 in the hope of adopting another Mexican child.

Minor said Tanner outlined a "new way" of adopting children from Mexico in which pregnant women were brought into the U.S. to give birth. The children would automatically become U.S. citizens and could be adopted without approval of Mexican courts, which can slow an adoption by several months.

Minor said she paid Tanner and Hall $2,000 in June 1982. In April 1983, Hall called the Minors and told them to meet him in Springerville, Ariz., where they could pick up a pregnant woman who did not want to keep her child.

The Minors took the juvenile to St. George and placed her with a family they knew that spoke Spanish. A few days later, Minor said, they took the woman to Boyack to draw up adoption papers.

Boyack, who said he speaks fluent Spanish, said the woman told him that "she was walking down the street in Torreon with just the clothes on her back and somebody asked her if she wanted a job in the U.S."

The woman told Boyack that she was brought into the United States "in what I perceived to be a coyote-type smuggling operation." A "coyote," is a name commonly given to someone who smuggled illegal aliens into the U.S. from Mexico.

Boyack said the woman did not know the name of the man she met in Torreon.

Boyack said he contacted the FBI and INS about the woman, and agents from both offices said "we'll check it out." The attorney said he didn't hear from either agency again until two weeks ago, when an FBI agent contacted him.

A week after woman's arrival in Utah, Boyack said, he decided to return her to Mexico to protect the Minors. Since then, he said, "she has blended into the woodwork."

Debbie Minor said FBI agents told, her recently that there were other pregnant women entering the U.S. in the same manner—most of them originating from Torreon. However, the FBI's Sutton would neither confirm nor deny the report.

Since October, the Star-Telegram has detailed the plight of American couples so desperate to adopt that they have paid thousands of dollars on the mere promise of a child. Included among those is the Bedford couple who said they paid more than $6,000 to Tanner and Kelley for a baby they never received. The Bedford couple never got their money back.

The couple is among the estimated 2 million couples nationally who are waiting to adopt children.

Hall, Tanner and Kelley have maintained that their adoption network, which uses lawyers in Mexico and private adoption agencies in the United States to link adoptive couples with children, has broken no laws. The three claim to have placed as many as 400 Mexican children with parents in the U.S.

[From Fort Worth Star-Telegram]

MORMONS REVISING POLICY ON ADOPTIONS

(By Carolyn Poirot and Stan Jones)

The Church of Jesus Christ of Latter-day Saints is revising its policy on adoptions to reinforce its stand against illegal and improperly arranged private adoptions.

The action comes as a growing number of Latter-day Saints, or Mormons, have been linked to the activities of an international adoption network under investigation by federal and state agencies in the United States and Mexico. At least 80 American couples in 18 states, are including a Bedford couple, claim they were defrauded of $3,000 to $7,000,00 each by the network; which promised Mexico-born children that were never delivered.

"In the wake of this new proliferation of illegal adoptions, a new policy is being formulated to go out from national church leaders to all local leaders," Don LeFevre, a spokesman for the church's world headquarters in Salt Lake City, Utah, said Friday.

The church has had a policy since 1979 stating that members should adopt only through authorized agencies. It was the first such policy statement by a major social services organization in the United States and the model for a similar policy established several years ago by Catholic Charities, said William Pierce, president of the National Committee for Adoptions.

"The church is adding to the 1979 policy and reminding our leaders that we do have such a policy," LeFevre said.

Despite a longstanding church policy on adoptions, many of those who paid money to the adoption network and did not receive children were Mormons, as were many couples who successfully adopted through the network.

A majority of the adoption network members, in fact, belong to the Mormon Church.

Debbie Tanner of Willcox, Ariz., who was responsible for finding couples in the United States seeking to adopt, often used her Mormon Church affiliation to help persuade other Mormons to trust her, several adoptive couples said.

Walter Turley of Durango, Mexico, who helped Tanner with between 15 and 20 Mexican adoptions, also is a Mormon. So is Fanny Hatch, a former Hermosillo, Mexico, resident who told the Star-Telegram that she paid pregnant mothers to give up their children for adoption while working for Tanner.

The Mormon ties, according to Tanner, Turley and Hatch, are due more to coincidence than design. Friendships, more than religious affiliation, brought them together, they said.

But Mormon couples said they believed in the adoption network, in large part, because of the Mormon connection.

"That's why I trusted her explicitly," said the wife of a doctor in Washington state who dealt with Tanner in 1980 and successfully adopted a 3-month-old girl from Mexico.

"Debbie used (the church) heavily," said a Utah woman who paid $3,800 to Tanner and Bryan Martin Hall of El Paso more than four years ago for a Mexican child that she never received.

"I think maybe that reflects on us (Mormons). We're too trusting. But I feel, even though I have been really stung by this, that (Tanner) really began with good intentions. I don't know where it went wrong."

"LDS people (Mormons) are quite trusting and (the church) realizes that Utah particularly can be a real mecca for charlatans," said Vance Anderson of Ogden,

Utah, who paid $2,500 to Tanner in the fall of 1980 toward an adoption that was never completed. "There people did come on as having LDS backgrounds."

In a check of 36 couples who attempted to adopt children through Tanner and Hall, the majority of those who successfully adopted were Mormon.

Of those questioned, 21 were Mormons. Thirteen of the Mormon couples got children and eight did not. Of the non-Mormon couples interviewed, three got children and 12 did not.

A general policy against private adoptions has been in effect for years in the Mormon Church because of the potential for unethical or illegal practices, LeFevre said. The new policy primarily will reemphasize what is already stated in the 1979 policy, he said.

A written policy was formulated in 1979 because it came to the attention of church leaders that "some members might be involved in illegal or improperly arranged private adoptions," said LeFevre, who is director of press information for the church.

He said as far as he knows the policy was not written in direct response to Tanner's activities but because of general public concern over the issue.

The policy states that all matters pertaining to adoptions or foster care in which church leaders or members are involved are the official responsibility of Latter-day Saints Social Service.

"Privately arranged placements of any children without a licensed agency's sanction are frequently in violation of local or national law," the policy notes. "Church officers or members should not be involved in such arrangements."

LeFevre said the policy points out that when members of the church are engaged in such activities, the public often views their actions as being sanctioned by the church.

"The church is so much against bringing children in illegally," said Ione Simpson, a Mormon and director of public policy and professional practice for the National Committee for Adoptions in Washington, D.C."

"Everyone wants a child so badly," Simpson said. "They know they can give the baby a good life that it never could have had otherwise, so they rationalize. If they have five or six children they know it will be difficult to adopt through agency. Their motives are always good."

It is not uncommon at all for a Mormon family to have 10 or 12 children, she noted. "The family is of prime importance to LDS."

The Star-Telegram check of the 36 couples showed that of those couples who received children, more than two-thirds had either biological children or other adopted children in their homes. Only four of the 16 adopting couples had no children of their own.

One couple had 10 children before they adopted a Mexican child through Tanner. Another couple had seven, another six. One Mormon family had four adopted children before adopting from Mexico and has since adopted three more children in the United States.

Of the 20 couples interviewed who did not get children, six had biological children, five had children through previous adoptions and nine had no children at all.

The church's Social Service requires that the adopting parents be members of the Mormon Church in good standing, and infants are placed only as the first or second child, LeFevre said.

There is no limit on special needs and older children, he said. They can be placed with couples even if they already have two children as long as parents are not more than 40 years older than the child they adopt.

Several hundred children are placed through the church agency each year, he said. "About one-fourth of those are special needs children," LeFevre said. "There is always a waiting list."

The Sun-Telegram has been detailing the problems with private adoptions, focusing on the activities of Tanner, Bryan Hall of El Paso and Beccie Kelley of New Market, Iowa, since October. The three are under investigations by federal authorities in the United States and Mexico and by officials in at least six states. The authorities are attempting to determine whether children were brought into the country illegally for adoption and whether couples who paid for adoptable babies but never received them were defrauded.

Tanner, Hall and Kelley have denied any wrongdoing.

[From Fort Worth Stan-Telegram, Mar. 6, 1984]

UTAH WOMEN FOCUS OF ADOPTION INQUIRY

(By Stan Jones)

Federal immigration authorities are investigating complaints that two Utah women induced American couples to smuggle Mexican babies into the United States for adoption, the Star-Telegram has learned.

The smuggling was done by the couples seeking to adopt the children at the urging of the two women, several couples said. Most of the babies were brought into the United States from Cuidad Juarez, Mexico, through El Paso.

The operation is similar to one operated by Debbie Tanner of Willcox, Ariz., and Bryan Hall of El Paso, which is under federal investigation for allegedly defrauding more than 80 American couples in 20 states of between $1,500 and $7,000 apiece in exchange for Mexican children that the couples never received. Many of the couples never got their money back.

While the two operations appear unrelated, federal investigators said both used the same attorney in Juarez to handle adoption paper work.

The women—Sandy Green of Hooper, near Ogden, Utah, and Neda Colwell of Layton, near South Ogden—and most of the couples that adopted children through them, are members of the Church of Jesus Christ of the Latter-day Saints, or Mormons. Tanner also is a Mormon, as are many of the adoptive couples who received Mexican children with her help and many who paid her to adopt but never received children. Church policy discourages members from using unlicensed adoption sources.

A woman who attempted to adopt a Mexican child through Green and Colwell said the women often called themselves "angels of mercy" because they were able to find American homes for destitute Mexican children.

Green and Colwell linked at least 50 American couples with Mexican children through attorneys in Juarez between 1980 and 1983, law enforcement officials said. In more than half of those transactions, Mexican babies were illegally smuggled into the United States, the source said.

Neither woman is licensed to place children in Utah, said Mary Lines, state adoption specialist with the family services division of the Utah Department of Social Services.

Green, who said she and Colwell stopped their adoption activities late last year, denied inducing adoptive couples to smuggle Mexican babies into the United States.

"We were very careful about how we did things," Green said. "Everybody assumes that because a few (adoption intermediaries) are guilty that everybody is."

Colwell could not be reached for comment.

George Handy, an Ogden attorney who represents Green and Colwell, said immigration authorities have not told him of the nature of the investigation.

"Three times I have invited the INS to meet with me and these ladies and ask them any questions they want to ask and they have not wanted to do this," Handy said. "I know absolutely nothing about these ladies encouraging anyone to bring a baby across the border. These ladies have assured me they have never done anything like that in any way."

Handy said Green and Colwell maintain that they made no money off the adoptions and "my understanding is they were trying to give assistance for people who wanted children."

Juarez attorney Pedro Diaz Luna Espinosa, who handled the paper work for most of the Green and Colwell adoptions at fees of up to $3,200 per couple, also denied involvement in any smuggling. He said he has handled only 12 to 15 adoptions through Green or Colwell since 1980.

"The adoptive parents would come to Juarez to pick up the children," Luna said. "I would give them the paper work and then the mothers would give them the babies directly. I had nothing to do with how those children got across (the border) and it did not concern me. My job was to do the legal paper work.

"It was never my intention that anything illegal be done and I have never done it," Luna said. "I'm not a smuggler of babies, aliens or anything."

Enrique Vasquez, the Mexican counsel in Salt Lake City, said Luna has been involved in "many, many adoptions" processed in Utah. Vasquez would not give specific figures.

Luna said he has never handled adoption paper work for Tanner's clients.

Another Juarez attorney, Edmundo Castillo Acuna, did the legal work on adoptions handled by Hall and Tanner in 1980 and is listed as the notary public on many of the adoptions done by Green and Colwell, the law enforcement source said.

An Ogden, Utah, woman who legally adopted a Mexican child with the help of Colwell and Green, disputed claims that Green and Colwell encouraged smuggling.

"(Green and Colwell) did everything they could to say you cannot do this (smuggle)," Sharon Kinne said. "We were all encouraged to do everything legally. I know of many, many other (adoptive) couples that are happy and sleep well at night knowing everything was done right."

A law enforcement source said, however, that it appears that most cases in which adoptive couples were united with Mexican babies through Green and Colwell, the children were smuggled into the United States.

Two adoptive couples interviewed by the Star-Telegram said that they felt compelled to bring the children across the border (illegally, although neither Green nor Colwell actually instructed them to do so.

"They themselves never got involved in bringing children across the border illegally but they encouraged the parents to do that," said a Utah woman who backed out of an adoption arrangement with Green and Colwell after paying $2,000. The woman, who reported the incident to U.S. Immigration and Naturalization Service, asked that she not be identified.

"They used emotional blackmail on people to kind of force them. They'd say 'you don't have to bring (the babies) across the border (illegally), but if you don't, the chances are they'll die before you get them out of there.'"

The woman said she asked for her money back from Green and Colwell, but only received $300 of the $2,000.

The babies were smuggled into the United States while adoption paper work was pending in Mexican courts, several adoptive couples said. In most cases, the couples were able to legally adopt the children in their home state, but in some cases the adoptions never have been completed.

The law enforcement source said evidence of smuggling has been turned over to the U.S. attorney's office in Salt Lake City. Criminal action is not expected against the adoptive couples, but Green and Colwell could face smuggling conspiracy charges, the source said.

U.S. Attorney Brent Ward refused to discuss the case, saying "we don't comment on ongoing investigations."

INS agents first learned of the smuggling in 1981 when couples returned to the United States with undocumented Mexican babies and tried to legally adopt them in their home states.

Scott and Jane Madsen, of North Salt Lake, Utah, said they learned of Green and Colwell in 1980, while in Mexico awaiting delivery of a baby through Tanner. Jane Madsen said a Mexican man visited them at their hotel in Juarez and said he could help them adopt a baby through Green and Colwell for only $1,500, far less than the $5,000 to $7,000 charged by Tanner.

The Madsens said they completed their adoption through Tanner, at a cost of $5,000, and decided a year later to adopt another child through Green and Colwell. The couple paid $1,800 to Green initially, they said and a few months later, Green told them they might want to consider smuggling a baby into the United States instead of waiting for the Mexican courts to approve the adoption.

"To finalize the adoption, they said we may have to live down there (in Juarez) for three weeks," Jane Madsen said. "Then the lawyer (Luna) said it was too dangerous for us to stay there because it might take three months. Then (Green) told us we might have to consider bringing the baby across illegally.

"She said, 'If you do, I don't want to know about it, but I'll tell you now other people have done it,'" Jane Madsen quoted Green as saying.

"At times, I wanted to just get out of it, but we couldn't afford losing the $2,000 we'd already paid," Jane Madsen said. "We felt like we were at their mercy."

In February of 1982, the Madsens traveled to Juarez, paid an additional $1,500 to Luna and received a 3-day-old baby girl. They said they paid the wife of a hotel maintenance worker to carry the baby across the border into the United States illegally. The couple later learned that the mother of the child was a deaf and dumb 16-year-old juvenile who could not legally relinquish her parental rights.

In addition to the $3,500, the Madsens said they were also required to pay between $25 and $50 a month to Green and Colwell for telephone expenses over an eight-month period. They were also asked to pay for plane trips the Utah women made to Mexico.

The Madsens said they have now paid more than $4,000 to Green, Colwell and Luna and still do not have the documents needed to legally adopt the child, either in Mexico or the United States. They said U.S. Immigration authorities are aware of the situation.

Other adoptive couples have been more fortunate and were able to legally adopt children through the Mexican courts, even though the children were smuggled into the United States.

A law enforcement source said both Green and Colwell have Mexican children of their own that may have been brought into the United States illegally. Green told the Star-Telegram that she had adopted five Mexican children legally. Colwell also has adopted Mexican children, an acquaintance said.

James H. Smith, agent in charge of the INS El Paso office, said that "inducement" to smuggle aliens into the United States is a felony offense, punishable by up to five years in prison and a $5,000 fine.

Ann Smith, a Ricksburg, Idaho, woman who adopted two children in Mexico in 1977 and later helped with the adoptions of 36 Mexican children by other U.S. couples said Colwell learned about Mexican adoptions through her.

"I got Nelda Colwell her first baby" through Luna, Smith said. Smith said Colwell apparently decided to go into the adoption business herself soon after adopting a child.

"I find Senor Luna to be a very humanitarian and deeply honest individual," Smith said. "Anything that has gone wrong has been (Colwell's) fault. I never had anything go wrong until she came along."

However, Smith said Luna was aware that adoptive couples were smuggling babies out of Mexico before the adoption paper work cleared the Juarez courts.

"He's approved that all along," Smith said. "I brought mine over illegally."

Smith said Luna charged a $3,200 fee for adoptions, which included legal paper work and all medical expenses of the child and the biological mother.

Tanner Hall and Becci Kelley of New Market, Iowa, also acted as unlicensed intermediaries to link American couples with Mexican children. The intermediaries were successful in arranging the adoptions of at least 100 Mexican children, a U.S. Embassy spokesman said, but at least 80 other couples that paid money to the network have not received children or a refund.

The trio are under investigation by the FBI, the INS, the Internal Revenue Service and consumer fraud offices in six states.

All three have maintained they have done nothing illegal.

[From Fort Worth Star-Telegram]

Felony Inquiry Aimed at Adoption Figure

(By Stan Jones)

The district attorney and county attorney in El Paso have begun investigations to determine whether a former bar operator violated state law by participating in an international adoption network that is accused of defrauding more than 80 United States couples.

Joe Lucas, assistant El Paso county attorney, said Bryan Martin Hall, a key figure in the adoption operation, is the focus of a "very active" inquiry.

Lucas said the county attorney's office is investigating allegations that Hall has been placing children for adoption without license, a Class C misdemeanor.

In addition, sources within the district attorney's office said Hall is under a felony investigation based on claims from adoptive couples in Texas and at least 19 other states that Hall and other adoption intermediaries failed to deliver children for adoption from Mexico after taking thousands of dollars from them.

Hall and two other people already are the focus of consumer fraud investigations in two states, Iowa and Kansas, and also are key figures in a nationwide FBI inquiry. In addition, the U.S. Immigration and Naturalization Service and the Internal Revenue Service are investigating their activities.

The El Paso district attorney's office is trying to determine if Hall, who controlled an El Paso bank account through which much of the missing money was funneled, violated felony theft-of-services statutes by failing to make good on promises to deliver Mexican children for adoption in exchange for the couples' money, sources said.

The couples have said they were defrauded of between $1,500 and $7,000 each by Hall, Debbie Tanner of Willcox, Ariz., and Becci Kelley of New Market, Iowa.

The trio, who said they acted as liaisons to link U.S. couples with Mexican children through attorneys in Ciudad Juarez and other Mexican cities, have denied any wrongdoing.

Hall, former operator of the topless Latin Lovers Club in El Paso, could not be reached for comment. His attorney, Sib Abraham of El Paso, also was unavailable.

Two adoptive couples who paid money to Hall, Tanner or Kelley and received nothing in return have surfaced in Texas. A Bedford couple, who moved to Texas from New Hampshire less than a year ago, said they paid $6,700 to Kelley and Hall almost two years ago and never received a child or a refund. In addition, a Corpus Christi couple paid an undisclosed amount to Tanner in September 1982.

The Corpus Christi couple refused to be interviewed by the Star-Telegram.

Lucas said the county attorney's office became interested in Hall after the Texas Department of Human Resources turned over the results of a seven-month investigation on the adoption network to County Attorney Luther Jones in January.

The department's information also was given to District Attorney Steve Simmons, who could not be reached for comment.

Dick Johnson, a licensing supervisor for the department, which investigates complaints of illegal-child placement, said his office has completed its inquiry and is awaiting action by Simmons or Jones.

"We've done what we can do unless asked to do additional work (by law officials)," he said.

Johnson said the Department of Human Resources could seek civil remedies and an injunction against Hall through the Texas attorney general's office, but he said there are no plans to involve the attorney general "at this time."

Texas child placement laws prohibit acting as an intermediary in private adoptions without a license.

Hall has said he is only a translator of adoption paperwork and does not act as an adoption intermediary.

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